UNITED STATES CODE

1976 EDITION

SUPPLEMENT I

CONTAINING THE GENERAL AND PERMANENT LAWS OF THE UNITED STATES, ENACTED DURING THE 95TH CONGRESS, FIRST SESSION

Prepared and published under authority of Title 2, U.S. Code, Section 285b by the Office of the Law Revision Counsel of the House of Representatives

JANUARY 4, 1977, TO JANUARY 18, 1978

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

Stock Number 052-001-00158-3

TITLES OF UNITED STATES CODE

*1. General Provisions.
2. The Congress.
*3. The President.
*4. Flag and Seal, Seat of Government, and the States.
*5. Government Organization and Employees.
*6. Surety Bonds.
7. Agriculture.
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21. Food and Drugs.
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*23. Highways.
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*28. Judiciary and Judicial Procedure.
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30. Mineral Lands and Mining.
31. Money and Finance.
*32. National Guard.
33. Navigation and Navigable Waters.
†34. [Navy.]
*35. Patents.
36. Patriotic Societies and Observances.
*37. Pay and Allowances of the Uniformed Services.
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*39. Postal Service.
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*44. Public Printing and Documents.
45. Railroads.
46. Shipping.
47. Telegraphs, Telephones, and Radiotelegraphs.
48. Territories and Insular Possessions.
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50. War and National Defense; and Appendix.

*This title has been enacted as law.
†This title has been eliminated by the enactment of Title 10.

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PREFACE

This first supplement to the 1976 edition of the United States Code has been prepared and published pursuant to section 285b of Title 2 of the Code. It contains the additions to and changes in the general and permanent laws of the United States enacted during the Ninety-fifth Congress, First Session. This supplement together with the 1976 edition establishes prima facie those laws in effect on January 18, 1978, except that Titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44, having been enacted into law, establish legal evidence of the law contained in those titles.

This supplement continues the practice of setting out notes captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. In addition, there is included in the Tables a Table of Internal References which consolidates all internal references contained in the individual "Section referred to in other sections" notes appearing in this supplement.

This supplement has been prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company, of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of the publishing company and of the Office of the Law Revision Counsel, and by the Government Printing Office.

Thomas P. O'Neill, Jr.

Speaker of the House of Representatives

WASHINGTON, D.C., *January 18, 1978.*

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THE ORGANIC LAWS
OF
THE UNITED STATES OF AMERICA

CONSTITUTION OF THE UNITED STATES OF AMERICA

PROPOSED AMENDMENT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

[EQUAL RIGHTS FOR MEN AND WOMEN]

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

Passed by Congress on March 22, 1972 and submitted to the Legislatures of the States for ratification under Const. art. 5.

This article shall be valid to all intents and purposes as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress.

RATIFICATION BY THE STATES

Hawaii	Mar. 22, 1972
Delaware	Mar. 23, 1972
New Hampshire	Mar. 23, 1972
Idaho	Mar. 24, 1972
Iowa	Mar. 24, 1972
Kansas	Mar. 28, 1972
Nebraska	Mar. 29, 1972
Texas	Mar. 30, 1972
Tennessee	Apr. 4, 1972
Alaska	Apr. 5, 1972
Rhode Island	Apr. 14, 1972
New Jersey	Apr. 17, 1972
Colorado	Apr. 21, 1972
West Virginia	Apr. 22, 1972
Wisconsin	Apr. 26, 1972
New York	May 18, 1972
Michigan	May 22, 1972
Maryland	May 26, 1972
Massachusetts	June 21, 1972
Kentucky	June 27, 1972
Pennsylvania	Sept. 26, 1972
California	Nov. 13, 1972
Wyoming	Jan. 26, 1973
South Dakota	Feb. 5, 1973
Oregon	Feb. 8, 1973
Minnesota	Feb. 8, 1973
New Mexico	Feb. 28, 1973
Vermont	Mar. 1, 1973
Connecticut	Mar. 15, 1973
Washington	Mar. 22, 1973
Maine	Jan. 18, 1974
Montana	Jan. 25, 1974
Ohio	Feb. 7, 1974
North Dakota	Mar. 19, 1975
Indiana	Jan. 24, 1977

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THE CODE OF LAWS OF THE UNITED STATES OF AMERICA

TITLE 1—GENERAL PROVISIONS

This title was enacted by act July 30, 1947, ch. 388, § 1, 61 Stat. 633

CHAPTER 2—ACTS AND RESOLUTIONS; FORMALITIES OF ENACTMENT; REPEALS; SEALING OF INSTRUMENTS

§ 112b. United States international agreements; transmission to Congress

The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President. Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Department of State the text of such agreement not later than twenty days after such agreement has been signed.

(As amended Pub. L. 95-45, § 5, June 15, 1977, 91 Stat. 224.)

AMENDMENTS

1977—Pub. L. 95-45 substituted "Committee on International Relations of the House of Representatives" for "Committee on Foreign Affairs of the House of Representatives" and added requirement that any department or agency of the United States Government which enters into any international agreement on behalf of the United States transmit to the Department of State the text of such agreement not later than twenty days after the agreement has been signed.

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32a. Compensation of Deputy President pro tempore of Senate [New].

58a. Wide Area Telephone Service for Senators; authorization for payment from contingent fund [New].

59c. Disposal of used or surplus furniture and equipment by Sergeant at Arms and Doorkeeper of the Senate; procedure; deposit of receipts [New].

§ 31. Compensation of Members of Congress

1977 Comparability Adjustment Not Effective for Members of Congress

Pub. L. 95-66, § 1(2), July 11, 1977, 91 Stat. 270, set out as a note under section 5318 of Title 5, Government Organization and Employees, provided that the first adjustment which, but for the enactment of Pub. L. 95-66, would have been made in the annual rate of pay for Members of Congress under paragraph (2) of this section after July 11, 1977, would not take effect.

Pay Increases Effective for Pay Period Beginning On or After October 1, 1976

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42, F.R. 52365, set out as a note under section 5332 of Title 5, Government Organization and Employees.

Pay Increases Effective for Pay Period Beginning On or After October 1, 1975

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, which provided for the adjustment of pay rates effective Oct. 1, 1975, was superseded by Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

§ 31a-1. Expense allowance of Majority and Minority Leaders of Senate; expense allowance of Majority and Minority Whips; methods of payment; taxability

Effective with fiscal year 1977 and each fiscal year thereafter, the expense allowance of the Majority and Minority Leaders of the Senate shall not exceed $5,000 each fiscal year for each Leader: *Provided,* That, effective April 1, 1977, there is hereby authorized an expense allowance for the Majority and Minority Whips of the Senate which shall not exceed $2,500 each fiscal year for each Whip: *Provided further,* That, during the period beginning on January 3, 1977, and ending September 30, 1977, and during each fiscal year thereafter, the Vice President, the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip may receive the expense allowance (a) as reimbursement for actual expenses incurred upon certification and documentation of such expenses by the Vice President, the respective Leader or the respective Whip, or (b) in equal monthly payments: *Provided further,* That effective January 3, 1977, the amounts paid to the Vice President, the Majority or Minority Leader of the Senate, or the Majority or Minority Whip of the Senate as reimbursement of actual expenses incurred upon certification and documentation pursuant to the second proviso of this section shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under title 26.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 79; Pub. L. 95-94, title I, § 109, Aug. 5, 1977, 91 Stat. 661.)

Codification

Section is based on the three provisos in the paragraph under the heading "Expense Allowances of the Vice President, Majority and Minority Leaders and Majority and Minority Whips" in the appropriation for the Senate in the Supplemental Appropriations Act, 1977 (Pub. L. 95-26), and section 109 of the Legislative Branch Appropriation Act, 1978 (Pub. L. 95-94).

§ 31b-5. Staff assistance to former Speaker for administration, etc., of matters pertaining to incumbency in office as Representative and Speaker; compensation and status of staff

In order to provide staff assistance to the Speaker in connection with the administration, settlement, and conclusion of matters pertaining to or arising out of his incumbency in office as a Representative in Congress and as Speaker of the House of Representatives, the contingent fund of the House is hereby made available, for

as long as he determines there is need therefor, commencing at the expiration of the term of office of the Speaker as a Representative in Congress to enable the Clerk of the House to pay the salaries of an Administrative Assistant, who shall be paid at a basic per annum rate of not to exceed $3,000, as determined by the Speaker, a Secretary, who shall be paid at a basic per annum rate of not to exceed $3,000, as determined by the Speaker, and an additional Secretary, who shall be paid at a gross per annum rate of not to exceed $9,000 as determined by the Speaker, designated and appointed by the Speaker to serve as members of his office staff in such period. Each person so designated and appointed shall be held and considered, for the duration of such appointment, as—

(1) an "employee" for the purposes of subchapter I of chapter 81 (relating to compensation for work injuries) of title 5, and

(2) a "congressional employee" within the meaning of section 2107 of title 5, for the purposes of—

(A) subchapter III (relating to civil service retirement) of chapter 83 of such title,

(B) chapter 87 (relating to Federal employees group life insurance) of such title, and

(C) chapter 89 (relating to Federal employees group health insurance) of such title.

(As amended Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Amendment by Pub. L. 95-94 is based on section 2 of House Resolution No. 1576, Ninety-fourth Congress, Sept. 30, 1976, which was enacted into permanent law by Pub. L. 95-94.

In the credit for Pub. L. 91-665, appearing in the main edition, 84 Stat. 1939 should read 84 Stat. 1989.

AMENDMENTS

1977—Pub. L. 95-94 added reference to an additional Secretary paid at a gross per annum of not to exceed $9,000 as determined by the Speaker and struck out "as Administrative Assistant or Secretary" following "Each person so designated and appointed".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2 of H. Res. 1576 provided in part that amendment is effective on the date of enactment of such section 2 into permanent law, Aug. 5, 1977, the date of approval of Pub. L. 95-94. See Codification note set out above.

§ 32a. Compensation of Deputy President pro tempore of Senate

Effective January 5, 1977, the compensation of a Deputy President pro tempore of the Senate shall be at a rate equal to the rate of annual compensation of the President pro tempore and the Majority and Minority Leaders of the Senate.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 79.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 41. Newspapers

APPLICABILITY OF PROHIBITION DURING NINETY-FIFTH CONGRESS

Section 302(c) of House Resolution No. 287, Ninety-fifth Congress, Mar. 2, 1977, enacted into permanent law by Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668, provided that: "Chapter 8, section 1 of the Act of February 12, 1868 (2 U.S.C. 41) shall have no effect during the Ninety-fifth Congress."

§ 56. Office expenses within the District of Columbia of the Delegate from the District of Columbia

REIMBURSEMENT OF EXPENSES OF HOUSE MEMBERS; MEMBER OF HOUSE OF REPRESENTATIVES AND MEMBER DEFINED

Section 302(a), (b), and (d) of House Resolution No. 287, Ninety-fifth Congress, Mar. 2, 1977, enacted into permanent law by Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668, provided that:

"(a) Notwithstanding any other provision of law and until otherwise provided by law—

"(1) effective Janauary 3, 1977, each Member of the House of Representatives shall be entitled to reimbursement under the nineteenth paragraph under the subheading 'CONTINGENT EXPENSES OF THE HOUSE' under the heading 'HOUSE OF REPRESENTATIVES' in the Legislative Appropriation Act, 1955 (2 U.S.C. 122a), or under chapter 4, section 401, of the Supplemental Appropriations Act, 1972 (2 U.S.C. 56), for any official expense incurred in the United States; and

"(2) the Clerk of the House may make disbursements under the paragraph referred to in paragraph (1) by (A) direct payment to the person from whom goods or services are obtained by the Member involved under such paragraph; or (B) reimbursement to the Member involved or person designated by the Member.

"(b) Effective January 3, 1978, notwithstanding any other provision of law and until otherwise provided by law, and conditional upon the adoption of a House rule prohibiting Members of the House of Representatives from maintaining unofficial office accounts, the entitlement of each Member of the House of Representatives under the nineteenth paragraph under the subheading 'CONTINGENT EXPENSES OF THE HOUSE' under the heading 'HOUSE OF REPRESENTATIVES' in the Legislative Appropriation Act, 1955 (2 U.S.C. 122a), or under chapter 4, section 401, of the Supplemental Appropriation Act, 1972 (2 U.S.C. 56), shall not exceed $7,000 annually.

"(d) For purposes of this section, the terms 'Member of the House of Representatives' and 'Member' mean each Representative in, or Delegate or Resident Commissioner to, the House of Representatives."

Section 302(a), (b), and (d) of House Resolution No. 287 is also set out as a note under section 122a of this title. Section 302(c) of such resolution is set out as a note under section 41 of this title.

§ 57. Adjustment of allowances by Committee on House Administration

COMMITTEE ORDER NO. 25

Resolved, that effective immediately prior to noon on January 3, 1977, until otherwise provided by order of the Committee on House Administration, the allowance for airmail and special delivery stamps authorized by 2 U.S.C. 42c and 42d shall be reduced from its existing level to one dollar per session.

COMMITTEE ORDER NO. 26

Resolved, that effective immediately prior to noon, January 3, 1977, until otherwise provided by Order of the Committee on House Administration, each Member of the House of Representatives shall be enti-

tled to annual clerk-hire allowance of $238,584.00 for not to exceed 18 clerks. The amount of this allowance may be adjusted by the Committee on House Administration subsequent to the adoption of this order to reflect any adjustment to federal salary levels that occur under the Federal Pay Comparability Act of 1971.

The Committee on House Administration of the House of Representatives shall promulgate such regulations as may be necessary to carry out the provisions of this resolution.

"Member" means each Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

Committee Order No. 27

Resolved, that effective September 1, 1976, until otherwise provided by order of the Committee on House Administration, reimbursements to Members for authorized expenditures shall be made only as prescribed by regulations of, and on forms issued by the Committee on House Administration.

"Member" means each Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

Committee Order No. 28

Resolved, that effective immediately prior to noon on January 3, 1977, until otherwise provided by Order of the Committee on House Administration, if a Member elects to utilize WATS or similar service in his or her office in the District of Columbia, the Telecommunications Allowance shall be reduced by one-half. The Committee on House Administration shall promulgate regulations to implement this order and ensure adequate telecommunications service for Members representing districts where WATS or similar service is not available.

"Member" means each Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

Committee Order No. 29

Resolved, that effective immediately prior to noon on January 3, 1977, until otherwise provided by Order of the Committee on House Administration, a Member may at any time during a session of Congress:

1—Receive in lieu of transportation authorized under 2 U.S.C. 43b a lump sum payment not to exceed $1.00 per session.

2—Withdraw a sum not to exceed $1.00 per session from his or her stationery account.

3—Receive under the provisions of 2 U.S.C. 122a an amount not to exceed $1.00 per session for official expenses outside the District of Columbia unless such Member submits an itemization of the expenses for which such Member seeks reimbursement.

The Committee on House Administration of the House of Representatives shall promulgate such regulations as may be necessary to carry out the provisions of this resolution.

"Member" means each Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

Committee Order No. 30

Resolved, that effective immediately prior to noon on January 3, 1977, until otherwise provided by Order of the Committee on House Administration, Members may elect to transfer the authorization to expend funds among the following allowances.

1. Constituent Communication Allowance.
2. Official Expenses Outside the District of Columbia Allowance.
3. Stationery Allowance.
4. Equipment Lease Allowance.
5. Travel Allowance for Members and Designated Employees. The maximum amount transferable will be limited to an amount computed as follows:

64 times the rate per mile between the District of Columbia and the furthest point in the Member's District, according to the Rand McNally Standard Highway Mileage Guide. In no case shall this amount be less than $2,250. The following rates per mile apply:

Under 500 miles	$.15/mile
At least 500 but under 750 miles	.14/mile
At least 750 but under 1000 miles	.13/mile
At least 1000 but under 1750 miles	.12/mile
At least 1750 but under 2250 miles	.11/mile
At least 2250 but under 2500 miles	.10/mile
At least 2500 but under 3000 miles	.09/mile
3000 miles or over	.08/mile

6. Telephone and Telegraph Allowance. The maximum amount transferable will be limited to an amount computed as follows:

15,000 minutes times the highest long-distance telephone rate from the District of Columbia to the Member's District.

If the Member has elected to utilize WATS or similar service in his or her office in the District of Columbia, the amount will be reduced by one-half.

7. District Office Rental Allowance. The maximum amount transferable will be computed as follows:

1500 times the highest allowable GSA rental cost per square foot for office space in the Member's District.

Additionally, a Member may transfer a maximum of $12,000 per regular session of Congress for computer and related services and a maximum of $3,000 per regular session of Congress for Office Equipment leasing for his or her clerk-hire allowance.

All transfers made under this order shall be among the several above-stated categories and for the necessary and official expenses incurred by the Member in the conduct of his or her duties as a Member of the House of Representatives.

In the event the House precludes the use of the contingent fund of the House for implementation of this committee order, the status quo anti shall be restored as respects the individual accounts and allowances heretofore established by committee order or regulation prior to the adoption of this committee order.

The Committee on House Administration of the House of Representatives shall promulgate such regulations as may be necessary to carry out the provisions of this resolution.

"Member" means each Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

Committee Order No. 31

Resolved, that effective April 1, 1977, until otherwise provided by order of the Committee on House Administration, each Member, Delegate or Resident Commissioner of the House of Representatives may compensate employees from the clerk-hire allowance at a per annum rate equivalent to, and not to exceed, the highest per annum rate of basic pay, as in effect from time to time, authorized for Level V of the Executive Schedule (5 U.S.C. 5316).

To Accompany Committee Order No. 31

This order will tie the maximum annual rate of compensation which may be paid from the clerk-hire allowance to the Executive Schedule, and will reestablish the previously existing parity between the maximum which may be paid a committee employee, and the maximum which may be paid a clerk-hire employee.

The Order raises the ceiling from its present level of $39,600 to $47,500, which corresponds to a Level V position, but provides *no* additional funds to the clerk-hire allowance. If a Member desires to raise an em-

ployee's salary, it must be done from the existing allowance.

This action is clearly within the Committee's authority under 2 U.S.C. 57 as modified by H.Res. 1372 (P.L. 94-440) [2 U.S.C. 57a], because it sets a "term or condition" of an allowance, and does not fix or adjust the amount of an allowance, which action would require a vote on the House floor.

§ 58. Mail, telegraph, telephone, stationery, office supplies, and home state office and travel expenses for Senators

(a) Authorization for payment from contingent fund

Effective January 1, 1973, and thereafter, the contingent fund of the Senate is made available for payment to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

(1) official telegrams and long-distance telephone calls and related services;

[*See main edition for text of (2) to (6)*]

(7) reimbursement to each Senator for charges for subscriptions to newspapers, magazines, periodicals, or clipping or similar services;

(8) subject to the provisions of subsection (e) of this section, reimbursement of travel expenses incurred by the Senator and employees in his office; and

(9) reimbursement to each Senator for such other official expenses as the Senator determines are necessary (not including official office expenses incurred in his State, but including actual transportation expenses incurred by the Senator and employees in his office in the performance of official business in the metropolitan area of Washington, District of Columbia, or, in the case of employees assigned to an office of the Senator in his home State, incurred by such employees in the performance of official business in the general vicinity of the office to which assigned), but only to the extent such expenses do not exceed for any calendar year ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section for such calendar year.

Reimbursement to a Senator and his employees under this section shall be made only upon presentation of itemized vouchers for expenses incurred and, in the case of expenses reimbursed under paragraph (9), only upon presentation of detailed itemized vouchers for such expenses. The reports of the Secretary of the Senate under section 104a of this title shall contain a separate section setting forth, in detail, all expenses reimbursed under paragraph (9) to each Senator. No reimbursement shall be made under paragraph (5) or (5 for any expense incurred for entertainment or meals.

(b) Limits for authorized expenses

(1) Except as otherwise provided in paragraph (2) of this subsection, the total amount of expenses authorized to be paid to or on behalf of a Senator under this section shall not exceed for calendar year 1977 or any calendar year thereafter an amount equal to one-half of the sum of the amounts authorized to be paid under this section on the day before August 5, 1977, to or on behalf of both of the Senators from the State which he represents, increased by an amount equal to ten percent thereof and rounded to the next higher multiple of $1,000.

[*See main edition for text of (2); (c) and (d)*]

(e) Transportation and per diem expenses; coverage; limitations; amounts

A Senator and the employees in his office shall be reimbursed under this section only for actual transportation expenses and per diem expenses (but not exceeding actual travel expenses) incurred by the Senator or employee while traveling on official business within the United States. In the case of an employee, reimbursement shall be made only for trips which begin and end in Washington, District of Columbia, or, in the case of an employee assigned to an office of a Senator in the Senator's home State, on trips which begin and end at the place where such office is located. However, a Senator or an employee in the office of a Senator shall not be reimbursed for any per diem expenses or actual travel expenses (other than actual transportation expenses) for any travel occurring during the sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office (within the meaning of section 431(b) of this title), unless his candidacy in such election is uncontested. Reimbursement of per diem expenses under this subsection shall be at the rates in effect under section 5702 of title 5 for employees of agencies. For purposes of this subsection and subsection (a)(8) of this section, an employee in the Office of the Majority Leader, Minority Leader, Majority Whip, or Minority Whip shall be considered to be an employee in the office of the Senator holding such Office.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-94, title I, § 112(a)-(c), Aug. 5, 1977, 91 Stat. 663, 664.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-94, § 112(a), in par. (1) struck out provision requiring authorization by the Committee on Rules and Administration in the manner prescribed by such Committee, in par. (7) struck out "and" at the end thereof, in par. (8) substituted provisions requiring reimbursement of travel expenses incurred by the Senator and employees in his office subject to the provisions of subsec. (e) of this section, for provisions authorizing reimbursement of actual travel expenses incurred by the Senator in travel-on official business between Washington, D.C. and the State he represents and within such State, and travel expenses incurred by employees in the Senator's office subject to the provisions of subsec. (e) of this section, added par. (9), and in material following par. (9) added provisions relating to reimbursement of expenses incurred under par. (9).

Subsec. (b)(1). Pub. L. 95-94, § 112(b), substituted provisions setting forth criteria for determination of total amount of expenses authorized to be paid to or on behalf of a Senator under this section for calendar year 1977 or any calendar year thereafter, for provisions setting forth criteria for determination of total

amount of expenses authorized to be paid to or on behalf of a Senator under this section for calendar year 1973 or any calendar year thereafter.

Subsec. (e). Pub. L. 95-94, § 112(c), substituted provisions setting forth prerequisites, conditions, and amounts of reimbursement for actual transportation expenses and per diem expenses, but not exceeding actual travel expenses, incurred by a Senator or employee in his office while traveling on official business within the United States, for provisions setting forth prerequisites, conditions, and amounts of reimbursement for per diem and actual transportation expenses incurred, or actual travel expenses incurred, by an employee in a Senator's office, including employees authorized by Senate Resolution 60, 94th Congress, and former section 72a-1c of this title, for round trips made by the employee on official business by the nearest usual route between Washington, D.C. and the home state of the Senator involved, and in traveling within the state.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 112(f) of Pub. L. 95-94 provided that: "The amendments made by subsections (a), (c), (d), and (e) [amending subsecs. (a) and (e) of this section and sections 59 and 68b of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1977]. The amendment made by subsection (b) [amending subsec. (b)(1) of this section] shall take effect as of January 1, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 68b of this title.

§ 58a. Wide Area Telephone Service for Senators; authorization for payment from contingent fund

Effective as of January 1, 1977, the Sergeant at Arms and Doorkeeper of the Senate shall, at the request of a Senator, furnish not more than two Wide Area Telephone Service (WATS) lines to that Senator, the cost of which shall be paid out of the contingent fund of the Senate.

(Pub. L. 95-94, title I, § 112(g), Aug. 5, 1977, 91 Stat. 665.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 59. Home state office space for Senators; lease of office space

[See main edition for text of (a) and (b)]

(c) Maximum annual rental rate; maximum aggregate amount for acquisition of furniture, equipment, and other office furnishings

[See main edition for text of (1)]

(2) The aggregate amount that may be paid for the acquisition of furniture, equipment, and other office furnishings heretofore provided by the Administrator of General Services for one or more offices secured for the Senator is $22,550 if the aggregate square feet of office space is not in excess of 4,800 square feet. Such amount is increased by $550 for each authorized additional incremental increase in office space of 200 square feet.

[See main edition for text of (d)]

(e) Mobile office

[See main edition for text of (1) to (4)]

(5) Reimbursement under paragraph (1) shall be made on a monthly basis and shall be paid upon vouchers approved by the Sergeant at Arms of the Senate.

(As amended Pub. L. 95-26, title I, § 105, May 4, 1977, 91 Stat. 83; Pub. L. 95-94, title I, § 112(d), Aug. 5, 1977, 91 Stat. 664.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-94 substituted "$22,550" for "$20,500" and "$550" for "$500".

Subsec. (e)(5). Pub. L. 95-26 substituted "monthly" for "quarterly".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-94 effective Aug. 5, 1977, see section 112(f) of Pub. L. 95-94, set out as an Effective Date of 1977 Amendment note under section 58 of this title.

§ 59c. Disposal of used or surplus furniture and equipment by Sergeant at Arms and Doorkeeper of the Senate; procedure; deposit of receipts

Effective October 1, 1977, the Sergeant at Arms and Doorkeeper of the Senate is authorized to dispose of used or surplus furniture and equipment by trade-in or by sale through the General Services Administration. Receipts from the sale of such furniture and equipment that has been or will be replaced in kind shall be deposited in the United States Treasury for credit to the appropriation for "Miscellaneous Items" under the heading "Contingent Expenses of the Senate". All other receipts from the sale of such furniture and equipment shall be deposited in the United States Treasury as miscellaneous receipts.

(Pub. L. 95-94, title I, § 103, Aug. 5, 1977, 91 Stat. 660.)

CODIFICATION

Section was taken from the Legislative Branch Appropriation Act, 1978.

CHAPTER 4—OFFICERS AND EMPLOYEES OF SENATE AND HOUSE OF REPRESENTATIVES

Sec.
61-1a. Availability of appropriated funds for payment to an individual of pay from more than one position; conditions [New].
61g-2. Transferred.
61g-3. Omitted.
61g-4. Appointment and compensation of Executive Assistants to Secretary of the Conference of the Majority and to Secretary of the Conference of the Minority [New].
61g-5. Appointment and compensation of employees in Office of Secretary for the Majority of the Senate and Office of Secretary for the Minority of the Senate; gross compensation [New].
61h to 61h-3. Omitted.
61h-4. Appointment of employees by Majority and Minority Leaders of Senate; compensation [New].

Sec.
61h-5. Appointment of Assistant to Majority Leader of Senate for Floor Operations and Assistant to Minority Leader of Senate for Floor Operations; compensation [New].
61h-6. Appointment of consultants by Majority Leader, Minority Leader, and Secretary of the Senate; compensation [New].
61j, 61j-1. Omitted.
61j-2. Compensation and appointment of employees by Majority and Minority Whips of Senate [New].
61k. Appointment and compensation of Administrative Assistant, Legislative Assistant, and Executive Secretary for President pro tempore of Senate [New].
61l. Appointment and compensation of Administrative Assistant, Legislative Assistant, and Executive Secretary for Deputy President pro tempore of Senate [New].
64-2. Transfers of funds by Secretary of Senate; approval by Senate resolution; reimbursement [New].
64-3. Reimbursement for United States Capitol Police salaries paid by Senate for service at Federal Law Enforcement Training Center [New].
69a. Orientation seminars, etc., for new Senators and staff members; payment of expenses [New].
72a-1d. Repealed.
72a-1e. Assistance to Senators with committee memberships by employees in office of Senator [New].
(1) Designation.
(2) Certification; professional staff privileges.
(3) Termination.
74a-3. Additional employees in offices of House minority leader, majority whip, and chief majority whip; authorization; compensation [New].
74a-4. Additional amounts for personnel and equipment for House majority and minority leaders and majority and minority whips [New].
75-1. Compensation of Clerk of the House of Representatives [New].
77a. Compensation of Sergeant at Arms of the House of Representatives [New].
84a-1. Official Reporter of Debates or Official Reporter to Committees: adjustment of compensation [New].

§ 60a. Omitted

LEGISLATIVE BRANCH APPROPRIATION ACTS

Pub. L. 95-94, title I, § 100, Aug. 5, 1977, 91 Stat. 653, provided in part for the funds for operation of Congress during fiscal year 1978.

§ 60a-1. Senate pay adjustments; action by President pro tempore of Senate

DIRECTIVE OF THE PRESIDENT PRO TEMPORE OF THE SENATE OF THE UNITED STATES ESTABLISHING A SALARY INCREASE FOR OFFICERS AND EMPLOYEES OF THE SENATE OF THE UNITED STATES UNDER AUTHORITY OF THE FEDERAL PAY COMPARABILITY ACT OF 1970

SEPTEMBER 29, 1977

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970 [section 60a-1 of this title], it is hereby—

Ordered,

CONVERSION TO NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this Order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this Order, the annual rate of compensation of each employee whose compensation is disbursed by the Secretary of the Senate is adjusted to that multiple of $179 which is nearest to but not less than the rate such employee was receiving on October 1, 1977, immediately prior to the application of this Order.

(b) For purposes of this Order—

(1) "employee" includes an officer other than a Senator; and

(2) "annual rate of compensation" shall not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended. [Section 60j of this title].

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level III of the Executive Schedule under section 5314 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation of Senators.

(b) The annual rates of compensation of the Secretary of the Majority (other than the present incumbent) and the Secretary for the Minority (as such rates were increased by prior orders of the President pro tempore), and the maximum annual rate of compensation of the Secretary for the Majority (as long as that position is occupied by the present incumbent) (as such rate was increased by prior orders of the President pro tempore), are further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $500 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(c)(1) The annual rates of compensation of the four Senior Counsels in the Office of the Legislative Counsel and the maximum annual rates of compensation of the Assistant Secretary of the Senate, the Parliamentarian, and the Financial Clerk (as such rates were increased by prior orders of the President pro tempore) are further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(2) The maximum annual rates of compensation of the Assistant to the Majority Leader for Floor Operations and the Assistant to the Minority Leader for Floor Operations are increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of

$179. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(d)(1) The maximum annual rate of compensation of the Special Deputy to the Federal Elections Commission in the Office of the Secretary of the Senate is increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $179 which is at least $2,500 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(2) The maximum annual rate of compensation of the Chief Reporter of Debates (as such rate was increased by prior orders of the President pro tempore) is further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $179 which is at least $3,900 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(3) The maximum annual rates of compensation of the seven Reporters of Debates in the Office of the Secretary (as such rates were increased by prior orders of the President pro tempore) are further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $179 which is at least $4,300 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referrred to in subsection (a) of this section.

(4) The maximum annual rates of compensation of the Administrative Assistant in the Office of the President pro tempore and the Office of the Deputy President pro tempore are increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $179 which is at least $4,800 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(5) The maximum annual rates of compensation of the Executive Assistant in the Office of the Secretary of the Conference of the Majority and the Office of the Secretary of the Conference of the Minority are increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $179 which is at least $5,900 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain and the maximum annual rate of compensation for the position of secretary to the Chaplain are increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179.

OFFICE OF THE SENATE

SEC. 4. (a) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in sections 2 (c) and (d) of this Order) under the jurisdiction of the Secretary of the Conference of the Majority, the Secretary of the Conference of the Minority, the Secretary of the Senate, and the Sergeant at Arms are increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179.

(b) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179:

(1) the Vice President, for any employee under this jurisdiction;

(2) the President pro tempore and the Deputy President pro tempore, for any employee under their respective jurisdictions (subject to the provisions of section 2(d) of this Order);

(3) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under their respective jurisdictions;

(4) the Majority Leader, for the Secretary for the Majority so long as the position is occupied by the present incumbent (subject to the provisions of section 2(b) of this Order);

(5) the Majority Leader and the Minority Leader, for the Assistant to the Majority Leader for Floor Operations and the Assistant to the Minority Leader for Floor Operations, respectively (subject to the provisions of section 2(c) of this Order);

(6) the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority, for any employee under their respective jurisdictions (subject to the provisions of section 2(d) of this Order);

(7) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of sections 2 (c) and (d) of this Order);

(8) the Sergeant at Arms, for any employee under his jurisdiction;

(9) the Chaplain, for his secretary;

(10) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee under his jurisdiction (other than the four Senior Counsels);

(11) the Secretary for the Majority and the Secretary for the Minority, for any employee under their respective jurisdictions; and

(12) the Capitol Guide Board, for the Chief Guide, the Deputy Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(c) The figure "$1,002", appearing in the first sentence of section 106(b) of the Legislative Branch Appropriation Act, 1963, as amended [section 60j(b) of this title] (as provided in section 4(d) of the Order of the President pro tempore of October 8, 1976), shall be deemed to refer to the figure "$1,074".

(d) The limitation on the rate per hour per person provided by applicable law immediately prior to October 1, 1977, with respect to the folding of speeches and pamphlets for the Senate, is increased by 7.05 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended [enacting section 61-1 of this title and amending section 60j of this title and section 5533 of Title 5] (as modified by this Order), and the other provisions of this Order, the chairman of any standing, special, or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate are each authorized to increase the annual rate of compensation of any employee of the committee, or subcommittee thereof, of which he is chairman, by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179.

(b)(1) The figures "$19,706" and "$29,726" appearing in section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended (as provided in section 5(b)(1) of the Order of the President pro tempore of October 8, 1976), shall be deemed to refer to the figures "$21,122" and "$31,862", respectively.

(2) The maximum annual rates of "$49,432", "$51,436", and "$54,275" appearing in such section 105(e) [section 61-1(e) of this title] (as provided in section 5(b)(2) of such Order of October 8, 1976) are each further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179, and shall be deemed to refer to the figures "$52,984", "$55,132", and "$58,175", respectively.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of a standing committee of the Senate or the majority or minority policy committee of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $179 which is at least $5,900, $4,600, and $2,000, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

(4) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any special or select committee of the Senate and the conference majority and conference minority of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $179 which is at least $5,900, $4,600, and $2,500, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

(5) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $179 which is at least $5,900, $4,800, and $2,900, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended [enacting section 61-1 of this title and amending section 60j of this title and section 5533 of Title 5] (as modified by this Order), and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179.

(b) The table contained in section 105(d)(1) of such Act [section 61-1(d)(1) of this title] shall be deemed to read as follows:

"$481,331 if the population of his State is less than 2,000,000;

"$495,293 if such population is 2,000,000 but less than 3,000,000;

"$528,945 if such population is 3,000,000 but less than 4,000,000;

"$572,263 if such population is 4,000,000 but less than 5,000,000;

"$607,705 if such population is 5,000,000 but less than 7,000,000;

"$644,937 if such population is 7,000,000 but less than 9,000,000;

"$685,391 if such population is 9,000,000 but less than 10,000,000;

"$716,537 if such population is 10,000,000 but less than 11,000,000;

"$757,349 if such population is 11,000,000 but less than 12,000,000;

"$788,495 if such population is 12,000,000 but less than 13,000,000;

"$828,233 if such population is 13,000,000 but less than 15,000,000;

"$867,971 if such population is 15,000,000 but less than 17,000,000;

"$907,709 if such population is 17,000,000 but less than 19,000,000;

"$937,423 if such population is 19,000,000 but less than 21,000,000;

"$967,137 if such population is 21,000,000 or more.".

(c)(1) The second sentence of section 105(d)(2) of such Act [section 61-1(d)(2) of this title] is modified to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,074 per annum or in excess of $29,177 per annum except that (i) the salaries of three employees may be fixed at rates of not more than the rate referred to in subsection (e)(1), (ii) the salaries of five employees may be fixed at rates of not more than $51,373 per annum, and (iii) the salary of one employee may be fixed at a rate of not more than $53,700 per annum.".

(2) Notwithstanding the modification made by paragraph (1) of this subsection, any individual occupying a position to which a rate referred to in clause (i), (ii), or (iii) of such modification applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $179 which is at least $5,900, $5,400, and $2,500, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,169" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended [section 61-1(f) of this title] (as provided in section 7(a) of the Order of the President pro tempore of October 8, 1976) shall be deemed to refer to the figure "$1,074".

(b)(1) The maximum annual rate of compensation of "$54,275" appearing in such section (as provided in section 7(b)(1) of such Order of October 8, 1976) is further increased by 7.05 percent, and as so increased, adjusted to the next higher multiple of $179, and shall be deemed to refer to the figure "$58,175".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $179 which is at least $2,500 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. (a) In order for an employee to be paid an increase in the annual rate of his compensation under authority given by this Order, the individual designat-

ed by section 4, 5, 6 to authorize an increased rate of compensation for that employee shall notify the disbursing office of the Senate in writing that he authorizes an increase in such rate for that employee (which may not exceed the increase authorized by this Order) and the date on which that increase is to be effective.

(b) Subsection (a) shall not apply to any employee to whom section 2(a) or (b) applies or to the four Senior Counsels in the Office of the Legislative Counsel.

DUAL COMPENSATION

SEC. 9. The figure "$10,540" contained in section 5533(c)(1) of title 5, United States Code, shall be deemed to refer to the figure "$11,830".

EFFECTIVE DATE

SEC. 10. Sections 1-9 of this Order are effective October 1, 1977.

JAMES O. EASTLAND,
President pro tempore.

§ 61-1. Gross rate of compensation of employees paid by Secretary of Senate

[*See main edition for text of (a) to (c)*]

(d) Compensation of employees in office of Senator; limitation; titles of positions

[*See main edition for text of (1)*]

(2) Within the limits prescribed by paragraph (1) of this subsection, Senators may fix the number and the rates of compensation of employees in their respective offices. The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,169 per annum or in excess of $27,221 per annum except that (i) the salaries of three employees may be fixed at rates of not more than the rate referred to in subsection (e)(1) of this section, (ii) the salaries of five employees may be fixed at rates of not more than $47,929 per annum, and (iii) the salary of one employee may be fixed at a rate of not more than $50,100 per annum. A Senator may establish such titles for positions in his office as he may desire to designate, by written notification to the disbursing office of the Senate.

[*See main edition for text of (e) to (g)*]

(As amended Pub. L. 95-94, title I, § 111(d), Aug. 5, 1977, 91 Stat. 663.)

CODIFICATION

Section 111(d) of Pub. L. 95-94, cited to the credit of this section, amended subsec. (d)(2) of this section and enacted a provision set out as a note below.

AMENDMENTS

1977—Subsec. (d)(2). Pub. L. 95-94 added cl. (i). Former cls. (i) and (ii) were redesignated (ii) and (iii), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-94 effective Oct. 1, 1977, see section 111(f) of Pub. L. 95-94, set out as an Effective Date note under section 72a-1e of this title.

AGGREGATE OF GROSS COMPENSATION FOR EMPLOYEES IN OFFICE OF SENATOR FOR EACH FISCAL YEAR; INCREASE IN AMOUNT; REDUCTION IN AMOUNTS FOR COMMITTEE CHAIRMEN, RANKING MINORITY MEMBERS, ETC.

Section 111(a), (b) of Pub. L. 95-94 provided that:

"(a) Except as provided in subsection (b), the aggregate of the gross compensation which may be paid to employees in the office of a Senator during each fiscal year under section 105(d) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(d), is increased by an amount equal to three times the amount referred to in section 105(e)(1) of such Act, as amended and modified [subsec. (e)(1) of this section].

"(b)(1) In the case of a Senator who is the chairman or ranking minority member of any committee, or of any subcommittee that receives funding to employ staff assistance separately from the funding authority for staff of the full committee, the amount referred to in subsection (a) shall be reduced by the amount referred to in section 105(e)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified [subsec. (e)(1) of this section], for each such committee or subcommittee.

"(2) In the case of a Senator who is authorized by a committee, a subcommittee thereof, or the chairman of a committee or subcommittee, as appropriate, to recommend or approve the appointment to the staff of such committee or subcommittee of one or more individuals for the purpose of assisting such Senator solely and directly in his duties as a member of such committee or subcommittee, the amount referred to in subsection (a) shall be reduced, for each such committee or subcommittee, by an amount equal to (A) the aggregate annual gross rates of compensation of all staff employees of that committee or subcommittee (i) whose appointment is made, approved, or recommended and (ii) whose continued employment is not disapproved by such Senator, if such employees are employed for the purpose of assisting such Senator solely and directly in his duties as a member of such committee or subcommittee thereof as the case may be, or (B) the amount referred to in section 105(e)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified [subsec. (e)(1) of this section], whichever is less.

"(3) In the case of a Senator who is serving on more than three committees, one of the committees on which he is serving, as selected by him, shall not be taken into account for purposes of paragraphs (1) and (2). Any such Senator shall notify the Secretary of the Senate of the committee selected by him under this paragraph."

1977 ADDITION OF EMPLOYEES IN OFFICE OF SENATOR NOT TO EFFECT SECTION 6(c) OF ORDER OF PRESIDENT PRO TEMPORE ISSUED ON OCTOBER 8, 1976

Section 111(d) of Pub. L. 95-94 provided in part that: "The amendments made by this subsection [amending subsec. (d)(2) of this section] shall have no effect on section 6(c) of the Order of the President pro tempore issued on October 8, 1976, under section 4 of the Federal Pay Comparability Act of 1970 [set out as a note under section 60a-1 of this title]."

1977 INCREASE IN ALLOWANCES FOR ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 81, provided in part: "That, effective April 1, 1977, the clerk hire allowance of each Senator from the State of Virginia shall be increased to that allowed Senators from States having a population of five million but less than seven million, the population of said State having exceeded five million inhabitants."

RATE OF PAY FOR SENATE COMMITTEE STAFF MEMBERS FOR 1977 COMMITTEE SYSTEM REORGANIZATION

Pub. L. 95-4, Feb. 16, 1977, 91 Stat. 12, provided: "That (a) notwithstanding the limitations contained in section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended and modified [subsec. (e) of this section], each eligible staff member of a new committee to whom section 703(d) of the Committee

System Reorganization Amendments of 1977 [S. Res. 4, Feb. 4, 1977] applies may, during the transition period of such new committee, be paid gross annual compensation at the rate which that eligible staff member was receiving on January 4, 1977.

"(b) For purposes of subsection (a), the terms 'eligible staff member', 'new committee', and 'transition period' have the meanings given to them by section 701 of the Committee System Reorganization Amendments of 1977 [S. Res. 4, Feb. 4, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 61-1a of this title.

§ 61-1a. Availability of appropriated funds for payment to an individual of pay from more than one position; conditions

Notwithstanding any other provision of law, appropriated funds are available for payment to an individual of pay from more than one position, each of which is in the office of a Senator and the pay for which is disbursed by the Secretary of the Senate, if the aggregate gross pay from those positions does not exceed the amount specified in section 61-1(d)(2)(ii) of this title.

(Pub. L. 95-94, title I, § 114, Aug. 5, 1977, 91 Stat. 665.)

CODIFICATION

Section was taken from the Legislative Branch Appropriation Act, 1978.

§ 61a-2. Compensation of Postmaster and Assistant Postmaster of the Senate

The gross rate of compensation of the Postmaster of the Senate shall be $18,420, and the gross rate of compensation of the Assistant Postmaster of the Senate shall be $14,570.

(As amended Pub. L. 95-94, title I, § 108(a), Aug. 5, 1977, 91 Stat. 661.)

AMENDMENTS

1977—Pub. L. 95-94 struck out provision that section 60j of this title shall not apply to the Postmaster and Assistant Postmaster of the Senate after Aug. 14, 1964.

CREDIT FOR SERVICE PERFORMED PRIOR TO AUGUST 5, 1977 FOR COMPUTATION OF LENGTH OF CONTINUOUS SERVICE IN DETERMINING ELIGIBILITY FOR LONGEVITY COMPENSATION; MONETARY BENEFITS PROHIBITED

Section 108(b) of Pub. L. 95-94 provided that: "In computing the length of continuous service for purposes of determining the eligibility of an individual under section 106 of the Legislative Branch Appropriation Act, 1963 [section 60j of this title], by reason of the amendment made by subsection (a) [amending this section], service performed prior to the date of the enactment of this Act [Aug. 5, 1977] may be credited, except that no increase in compensation by reason of such amendment shall take effect for any pay period beginning before October 1, 1977, and no monetary benefit by reason of such amendment shall accrue for any period before such date."

§ 61a-9a. Travel expenses of Secretary of the Senate; advancement of travel funds to designated employees

For the purpose of carrying out his duties, the Secretary of the Senate is authorized to incur official travel expenses but such expenditures shall not exceed $5,500 during any fiscal year. The Secretary of the Senate is authorized to advance, in his discretion, to any designated employee under his jurisdiction, such sums as may be necessary, not exceeding $1,000, to defray official travel expenses in assisting the Secretary in carrying out his duties. Any such employee shall, as soon as practicable, furnish to the Secretary a detailed voucher for such expenses incurred and make settlement with respect to any amount so advanced. Payments to carry out the provisions of this section shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate.

(As amended Pub. L. 95-94, title I, § 106, Aug. 5, 1977, 91 Stat. 661.)

AMENDMENTS

1977—Pub. L. 95-94 substituted "$5,500" for "$5,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 106 of Pub. L. 95-94 provided in part that the amendment by Pub. L. 95-94 is effective Oct. 1, 1977.

§ 61b-1a. Appointment and compensation of third assistant parliamentarian

Effective October 1, 1977, the Secretary may appoint and fix the compensation of a Third Assistant Parliamentarian at not to exceed $28,056 per annum in lieu of not to exceed $25,718 per annum.

(As amended Pub. L. 95-94, title I, § 100, Aug. 5, 1977, 91 Stat. 654.)

AMENDMENTS

1977—Pub. L. 95-94 substituted "October 1, 1977" for "July 1, 1972" and "$28,056 per annum in lieu of not to exceed $25,718 per annum" for "$19,684 per annum" and struck out "of the Senate" following "Secretary".

§ 61d. Compensation of the Chaplain of the Senate

Effective April 1, 1977, the compensation of the Chaplain of the Senate shall be $22,044 per annum.

(As amended Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80.)

AMENDMENTS

1977—Pub. L. 95-26 substituted "April 1, 1977" for "July 1, 1973" and "$22,044" for "$15,232".

§ 61g. Compensation of Secretaries for the Senate Majority and Minority

The Secretary for the Majority of the Senate (other than the incumbent holding office on April 1, 1977) and the Secretary for the Minority of the Senate shall each be paid at an annual rate of compensation of $39,500.

(As amended Pub. L. 95-26, title I, § 102(a), May 4, 1977, 91 Stat. 82.)

AMENDMENTS

1977—Pub. L. 95-26 substituted "April 1, 1977" for "July 1, 1975". Provisions covering the compensation

of the incumbent holding the office of Secretary for the Majority of the Senate on July 1, 1975, were dropped as executed. See successor provisions set out as a note below.

COMPENSATION OF INCUMBENT HOLDING POSITION OF SECRETARY FOR THE MAJORITY ON APRIL 1, 1977

Section 102(b) of Pub. L. 95-26 provided that: "The Majority Leader of the Senate is authorized to fix the compensation of the Secretary for the Majority so long as the position is held by the incumbent holding such position on April 1, 1977."

§ 61g-2. Transferred

CODIFICATION

Pub. L. 94-59, title I, § 100, July 25, 1975, which related to appointment and compensation of assistants for Secretaries for Majority and Minority during emergencies, was originally set out as section 61g-3 of this title, and section 61g-2 did not exist. In the main volume of the 1976 ed., section 61g-3 was inadvertently numbered as section 61g-2.

§ 61g-3. Omitted

CODIFICATION

Section, Pub. L. 94-59, title I, § 100, July 25, 1975, 89 Stat. 272, which authorized, effective July 1, 1975, and each fiscal year thereafter, the Secretaries for the Majority and Minority to each appoint and fix the compensation of an assistant during emergencies at specified rates of compensation for not more than six months in each fiscal year was omitted from the Code as obsolete in view of Pub. L. 95-94, title I, § 100, Aug. 5, 1977, 91 Stat. 658, which abolished such positions, effective Oct. 1, 1977, and authorized the Secretaries concerned to appoint such employees as they deem appropriate. See section 61g-5 of this title.

In the main edition, this section was inadvertently numbered as section 61g-2.

§ 61g-4. Appointment and compensation of Executive Assistants to Secretary of the Conference of the Majority and to Secretary of the Conference of the Minority

Effective April 1, 1977, the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority may each appoint and fix the compensation of an Executive Assistant at not to exceed $45,758 per annum and a Secretary at not to exceed $17,869 per annum.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 61g-5. Appointment and compensation of employees in Office of Secretary for the Majority of the Senate and Office of Secretary for the Minority of the Senate; gross compensation

Effective October 1, 1977, the Secretary for the Majority and the Secretary for the Minority are each authorized to appoint and fix the compensation of such employees as they deem appropriate: *Provided*, That the gross compensation paid to such employees shall not exceed $143,200 each fiscal year for each Secretary.

(Pub. L. 95-94, title I, § 100, Aug. 5, 1977, 91 Stat. 658.)

CODIFICATION

Section was taken from the Legislative Branch Appropriation Act, 1978.

§ 61h. Omitted

CODIFICATION

Section, Pub. L. 93-371, § 101(4), Aug. 13, 1974, 88 Stat. 429; Pub. L. 94-59, title I, § 105, July 25, 1975, 89 Stat. 275, which set forth the maximum annual rate of compensation for the Assistant Secretaries for the Majority and the Minority was omitted from the Code as obsolete in view of Pub. L. 95-94, title I, § 100, Aug. 5, 1977, 91 Stat. 658, which abolished such positions, effective Oct. 1, 1977, and authorized the Secretaries concerned to appoint and fix the compensation of such employees as they deem appropriate. See section 61g-5 of this title.

§ 61h-1. Omitted

CODIFICATION

Section, Pub. L. 93-371, § 101(4), Aug. 13, 1974, 88 Stat. 429; Pub. L. 94-59, title I, § 105, July 25, 1975, 89 Stat. 275, which set a maximum annual rate of compensation of $38,000 for administrative assistants in the Offices of the Majority and Minority Leaders of the Senate, was omitted from the Code as obsolete. Positions established by the Legislative Branch Appropriation Act, 1970, for the Offices of the Majority and Minority Leaders of the Senate, which Act, Pub. L. 91-145, § 101, Dec. 12, 1969, 83 Stat. 339, formerly classified to this section, authorized the respective leaders to appoint an administrative assistant, were abolished, see section 100 of Pub. L. 95-26, set out below. See also section 61h-4 of this title.

ABOLITION OF POSITIONS IN OFFICES OF MAJORITY AND MINORITY LEADERS OF SENATE

Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80, provided in part: "That the positions established by the Legislative Branch Appropriation Act, 1970 [Pub. L. 91-145, Dec. 12, 1969, 83 Stat. 338], for the Offices of the Majority and Minority Leaders [of the Senate] are abolished effective April 1, 1977." The positions referred to were enumerated in Pub. L. 91-145, § 101, Dec. 12, 1969, 83 Stat. 339, classified to former section 61h-1 of this title, which authorized the respective leaders to appoint an administrative assistant, a legislative assistant, an executive secretary, and a clerical assistant in lieu of the positions authorized prior thereto by Senate Resolution 158, agreed to Dec. 9, 1941, Pub. L. 86-30, approved May 20, 1959, and Senate Resolution 240, agreed to Jan. 24, 1952. See section 61h-4 of this title.

§ 61h-2. Omitted

CODIFICATION

Section, Pub. L. 94-59, title I, § 105, July 25, 1975, 89 Stat. 275, which set a maximum annual rate of compensation of $36,500 for legislative assistants in the Offices of the Majority and Minority Leaders of the Senate, was omitted from the Code as obsolete. Positions established by the Legislative Branch Appropriation Act, 1970, for the Offices of the Majority and Minority Leaders of the Senate, which Act, Pub. L. 91-145, § 101, Dec. 12, 1969, 83 Stat. 339, classified to former section 61h-1 of this title, authorized the respective leaders to appoint a legislative assistant, were abolished, see section 100 of Pub. L. 95-26, title I, May 4, 1977, 91 Stat. 80, set out as a note under section 61h-1 of this title. See also section 61h-4 of this title.

§ 61h-3. Omitted

CODIFICATION

Section, Pub. L. 94-59, title I, § 100, July 25, 1975, 89 Stat. 269, which authorized the Majority and Minority Leaders to appoint and fix the compensation of an executive secretary and a clerical assistant effective July 1, 1975, was omitted from the Code as obsolete. Positions established by the Legislative Branch Appropriation Act, 1970, for the Offices of the Majority and Minority Leaders of the Senate, which Act, Pub. L. 91-145, § 101, Dec. 12, 1969, 83 Stat. 339, classified to former section 61h-1 of this title, authorized the respective leaders to appoint an executive secretary, and a clerical assistant, were abolished, see Pub. L. 95-26, title I, § 100, May 4, 1977 91 Stat. 80, set out as a note under section 61h-1 of this title. See also section 61h-4 of this title.

§ 61h-4. Appointment of employees by Majority and Minority Leaders of Senate; compensation

Effective April 1, 1977, the Majority Leader and the Minority Leader are each authorized to appoint and fix the compensation of such employees as they deem appropriate: *Provided*, That the gross compensation paid to such employees shall not exceed $191,700 each fiscal year for each Leader.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 61h-5. Appointment of Assistant to Majority Leader of Senate for Floor Operations and Assistant to Minority Leader of Senate for Floor Operations; compensation

Effective April 1, 1977, the Majority Leader and the Minority Leader may appoint an Assistant to the Majority Leader for Floor Operations and an Assistant to the Minority Leader for Floor Operations, respectively, and fix the compensation of such assistants at a rate of compensation not to exceed the maximum annual rate of gross compensation of the Assistant Secretary of the Senate.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 61h-6. Appointment of consultants by Majority Leader, Minority Leader, and Secretary of the Senate; compensation

Effective April 1, 1977, the Majority Leader, Minority Leader, and Secretary of the Senate are each authorized to appoint and fix the compensation of not more than two individual consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate. The provisions of section 8344 of title 5 shall not apply to any individual serving in a position under this authority. Expenditures under this authority shall be paid from the contingent fund of the Senate upon vouchers approved by the Majority Leader, Minority Leader, and Secretary of the Senate, respectively.

(Pub. L. 95-26, title I, § 101, May 4, 1977, 91 Stat. 82, amended Pub. L. 95-94, title I, § 110(a), Aug. 5, 1977, 91 Stat. 662.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

AMENDMENTS

1977—Pub. L. 95-94 added references to Secretary of the Senate wherever appearing therein.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 110(b) of Pub. L. 95-94 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on August 1, 1977."

§ 61j. Omitted

CODIFICATION

Section, Pub. L. 93-371, § 101(4), Aug. 13, 1974, 88 Stat. 429; Pub. L. 94-59, title I, § 105, July 25, 1975, 89 Stat. 275, which set a maximum annual rate of compensation of $37,000 for administrative assistants in the offices of the Majority and Minority Whips of the Senate, was omitted from the Code as obsolete. Positions established by the Legislative Branch Appropriation Act, 1970, for the Offices of the Majority and Minority Whips of the Senate, which Act, Pub. L. 91-145, § 101, Dec. 12, 1969, 83 Stat. 339, classified to former section 61j of this title, authorized the respective whips to appoint an administrative assistant, were abolished, see section 100 of Pub. L. 95-26, set out below. See also section 61j-2 of this title.

ABOLITION OF POSITIONS IN OFFICES OF MAJORITY AND MINORITY WHIPS OF SENATE

Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80, provided in part that the positions established by the Legislative Branch Appropriation Act, 1970 [Pub. L. 91-145, Dec. 12, 1969, 83 Stat. 338] and the Legislative Branch Appropriation Act, 1976 [Pub. L. 94-59, July 25, 1975, 89 Stat. 269], for the Offices of the Majority and Minority Whips [of the Senate] are abolished effective April 1, 1977. The positions referred to as having been established by the Legislative Branch Appropriation Act, 1970, were set out in Pub. L. 91-145, § 101, Dec. 12, 1969, 83 Stat. 339, classified to former section 61j of this title, which authorized the respective party whips to appoint an administrative assistant and an executive secretary. The positions referred to as having been established by the Legislative Branch Appropriation Act, 1976, were set out in Pub. L. 94-59, title I, § 100, July 25, 1975, 89 Stat. 270, classified to former section 61j-1 of this title, which authorized the respective party whips to appoint and fix the compensation of a legislative assistant. See section 61j-2 of this title.

61j-1. Omitted

CODIFICATION

Section, Pub. L. 94-59, title I, § 100, July 25, 1975, 89 Stat. 270, authorized the Majority and Minority Whips of the Senate, effective July 1, 1975, each to appoint and fix the compensation of a legislative assistant. The positions established by Pub. L. 94-59 for the Offices of the Majority and Minority Whips of the Senate were abolished effective Apr. 1, 1977, by Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80. See note under section 61j of this title and section 61j-2 of this title.

§ 61j-2. Compensation and appointment of employees by Majority and Minority Whips of Senate

Effective April 1, 1977, the Majority Whip and the Minority Whip are each authorized to appoint and fix the compensation of such employees as they deem appropriate: *Provided,* That the gross compensation paid to such employees shall not exceed $111,100 each fiscal year for each Whip.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 61k. Appointment and compensation of Administrative Assistant, Legislative Assistant, and Executive Secretary for President pro tempore of Senate

Effective April 1, 1977, the President pro tempore is authorized to appoint and fix the compensation of an Administrative Assistant at not to exceed $47,595 per annum; a Legislative Assistant at not to exceed $40,080 per annum, and an Executive Secretary at not to exceed $23,380 per annum.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 79.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 61*l*. Appointment and compensation of Administrative Assistant, Legislative Assistant, and Executive Secretary for Deputy President pro tempore of Senate

Effective April 1, 1977, the Deputy President pro tempore is authorized to appoint and fix the compensation of an Administrative Assistant at not to exceed $47,595 per annum; a Legislative Assistant at not to exceed $40,080 per annum, and an Executive Secretary at not to exceed $23,380 per annum.

(Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 80.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 64-2. Transfers of funds by Secretary of Senate; approval by Senate resolution; reimbursement

On and after May 4, 1977, the Secretary of the Senate is authorized to make such transfers between appropriations or funds available for disbursement by him for a fiscal year as may be approved by a resolution of the Senate (reported by the Committee on Appropriations of the Senate), and, to the extent necessary, to reimburse, out of funds thereafter made available for disbursement by him for such fiscal year, any appropriation or fund for any amount so transferred from it.

(Pub. L. 95-26, title I, § 108, May 4, 1977, 91 Stat. 85.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 64-3. Reimbursement for United States Capitol Police salaries paid by Senate for service at Federal Law Enforcement Training Center

Notwithstanding any other provision of law, the Secretary of the Senate is authorized to receive moneys from the Department of the Treasury as reimbursements for salaries paid by the United States Senate in connection with certain officers and members of the United States Capitol Police serving as instructors at the Federal Law Enforcement Training Center. Moneys so received shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Pub. L. 95-26, title I, § 111, May 4, 1977, 91 Stat. 87.)

CODIFICATION

Section was taken from the Supplemental Appropriations Act, 1977.

§ 65b. Advances to Sergeant at Arms of the Senate for extraordinary expenses

The Secretary of the Senate on and after July 31, 1958 is authorized, in his discretion, to advance to the Sergeant at Arms of the Senate such sums as may be necessary, not exceeding $4,000, to meet any extraordinary expenses of the Senate.

(As amended Pub. L. 95-26, title I, § 104, May 4, 1977, 91 Stat. 82.)

AMENDMENTS

1977—Pub. L. 95-26 struck out "during any fiscal year" following "$4,000".

§ 68b. Per diem and subsistence expenses from Senate contingent fund

No part of the appropriations made under the heading "Contingent Expenses of the Senate" on and after June 27, 1956 may be expended for per diem and subsistence expenses (as defined in section 5701 of title 5) at rates in excess of $35 per day; except that (1) higher rates may be established by the Committee on Rules and Administration for travel beyond the limits of the continental United States, and (2) in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate, reimbursement for such expenses may be made on an actual expense basis of not to exceed $50 per day in the case of travel within the continental limits of the United States. This section shall not apply with respect to per diem or actual travel expenses incurred by Senators and employees in the office of a Senator which are reimbursed under section 58 of this title.

(As amended Aug. 5, 1977, Pub. L. 95-94, title I, § 112(e), 91 Stat. 664.)

AMENDMENTS

1977—Pub. L. 95-94 added provisions relating to applicability to per diem or actual travel expenses in-

curred by a Senator or his employee reimbursed under section 58 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-94 effective Aug. 5, 1977, see section 112(f) of Pub. L. 95-94, set out as an Effective Date of 1977 Amendment note under section 58 of this title.

§ 69a. Orientation seminars, etc., for new Senators and staff members; payment of expenses

Effective October 1, 1976, the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to expend from the contingent fund of the Senate such sums as may be necessary, not to exceed $1,000 during any fiscal year, to conduct orientation seminars for new Senators and members of their staffs and similar meetings. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate or Sergeant at Arms and Doorkeeper of the Senate.

(Pub. L. 95-94, title I, § 105, Aug. 5, 1977, 91 Stat. 661.)

CODIFICATION

Section was taken from the Legislative Branch Appropriation Act, 1978.

§ 72a-1c. Repealed. Pub. L. 95-26, title I, § 106(f), May 4, 1977, 91 Stat. 84

Section, Pub. L. 94-59, title I, § 108, July 25, 1975, 89 Stat. 276; Pub. L. 94-440, title I, § 102, Oct. 1, 1976, 90 Stat. 1443, authorized Senators to hire staff assistance in connection with their committee memberships. See section 72a-1e of this title.

EFFECTIVE DATE OF REPEAL

Section 106(g)(1) of Pub. L. 95-26, title I, May 4, 1977, 91 Stat. 84, which provided that the repeal of this section is effective Mar. 1, 1977, was repealed by Pub. L. 95-94, title I, § 111(e)(1), Aug. 5, 1977, 91 Stat. 663.

§ 72a-1d. Repealed. Pub. L. 95-94, title I, § 111(e)(1), Aug. 5, 1977, 91 Stat. 663

Section, Pub. L. 95-26, title I, § 106(a)-(e), May 4, 1977, 91 Stat. 83, 84, authorized Senators to employ individuals to assist with committee memberships of Senators and set forth compensation limitations and procedures applicable for employment of such individuals. See section 72a-1e of this title and section 111(a), (b) of Pub. L. 95-94, set out as a note under section 61-1 of this title for related provisions.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1977, see section 111(f) of Pub. L. 95-94, set out as an Effective Date note under section 72a-1e of this title.

EFFECTIVE DATE AND SAVINGS PROVISIONS

Section 106(g) of Pub. L. 95-26, title I, May 4, 1977, 91 Stat. 84, provided that this section is effective Mar. 1, 1977 and set forth savings provisions relating to designations and availability of amounts for employees covered by section 72a-1d of this title, and was repealed by section 111(e)(1) of Pub. L. 95-94, title I, Aug. 5, 1977, 91 Stat. 663.

§ 72a-1e. Assistance to Senators with committee memberships by employees in office of Senator

(1) Designation

A Senator may designate employees in his office to assist him in connection with his membership on committees of the Senate. An employee may be designated with respect to only one committee.

(2) Certification; professional staff privileges

An employee designated by a Senator under this section shall be certified by him to the chairman and ranking minority member of the committee with respect to which such designation is made. Such employee shall be accorded all privileges of a professional staff member (whether permanent or investigatory) of such committee including access to all committee sessions and files, except that any such committee may restrict access to its sessions to one staff member per Senator at a time and require, if classified material is being handled or discussed, that any staff member possess the appropriate security clearance before being allowed access to such material or to discussion of it. Nothing contained in this paragraph shall be construed to prohibit a committee from adopting policies and practices with respect to the application of this subsection which are similar to the policies and practices adopted with respect to the application of section 705(c)(1) of Senate Resolution 4, 95th Congress, and section 72a-1d(c)(1) of this title.

(3) Termination

A Senator shall notify the chairman and ranking minority member of a committee whenever a designation of an employee under this section with respect to such committee is terminated.

(Pub. L. 95-94, title I, § 111(c), Aug. 5, 1977, 91 Stat. 662.)

REFERENCES IN TEXT

Section 705(c)(1) of Senate Resolution 4, 95th Congress, referred to in subsec. (2), which is not classified to the Code, was repealed by Pub. L. 95-94, title I, § 111(e)(2), Aug. 5, 1977, 91 Stat. 663.

Section 72a-1d(c)(1) of this title, referred to in subsec. (2), was repealed by Pub. L. 95-94, title I, § 111(e)(1), Aug. 5, 1977, 91 Stat. 663.

CODIFICATION

Section was taken from the Legislative Branch Appropriation Act, 1978.

EFFECTIVE DATE

Section 111(f) of Pub. L. 95-94 provided that: "This section, and the amendments made by subsection (d) and the repeals made by subsection (e) [enacting this section, amending section 61-1 of this title, enacting notes set out under section 61-1 of this title, and repealing notes set out under section 72a-1d of this title], shall take effect on October 1, 1977."

§ 74a-3. Additional employees in offices of House minority leader, majority whip, and chief majority whip; authorization; compensation

(a) Subject to the provisions of subsection (b) of this section, effective March 1, 1977, there shall be two additional employees in the office of the minority leader, and one additional em-

ployee each in the offices of the majority whip and the chief majority whip.

(b) The annual rate of compensation for any individual employed under subsection (a) of this section shall not exceed the annual rate of basic pay of level V of the Executive Schedule of section 5316 of title 5, and until otherwise provided by law such compensation as may be necessary shall be paid from the contingent fund of the House.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on section 1 of House Resolution No. 393, Ninety-fifth Congress, Mar. 31, 1977, which was enacted into permanent law by Pub. L. 95-94.

§ 74a-4. Additional amounts for personnel and equipment for House majority and minority leaders and majority and minority whips

Effective March 1, 1977, and until otherwise provided by law, there shall be paid out of the contingent fund of the House such additional amounts as may be necessary for office personnel, and rental or lease of necessary equipment, of each of the following officials of the House the following per annum amounts:

(1) The majority leader, $30,000.

(2) The minority leader, $30,000.

(3) The majority whip, $15,000.

(4) The minority whip, $15,000.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on section 2 of House Resolution No. 393, Ninety-fifth Congress, Mar. 31, 1977, which was enacted into permanent law by Pub. L. 95-94.

§ 75-1. Compensation of Clerk of the House of Representatives

Until otherwise provided by law, the Clerk of the House of Representatives may be compensated at a rate not in excess of the rate of basic pay for one pay level above the maximum pay level for employees of the House of Representatives provided under clause 6(c) of Rule XI of the Rules of the House of Representatives.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on par. (3) of House Resolution No. 8, Ninety-fifth Congress, Jan. 4, 1977, which was enacted into permanent law by Pub. L. 95-94.

PRIOR PROVISIONS

A prior section 75-1, based on House Resolution No. 890, Ninety-second Congress, Oct. 4, 1972, as enacted into permanent law by Pub. L. 92-607, ch. V, § 508, Oct. 31, 1972, 86 Stat. 1509, which set forth the compensation of the Clerk at equal to the annual rate of basic pay fixed for level IV of the Executive Schedule under section 5315 of Title 5, Government Organization and Employees, was omitted as superseded by this section.

§ 76-1. Compensation of Doorkeeper of the House of Representatives

Until otherwise provided by law, the Doorkeeper of the House of Representatives may be compensated at a rate not in excess of the rate of basic pay for one pay level above the maximum pay level for employees of the House of Representatives provided under clause 6(c) of Rule XI of the Rules of the House of Representatives.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on par. (3) of House Resolution No. 8, Ninety-fifth Congress, Jan. 4, 1977, which was enacted into permanent law by Pub. L. 95-94.

PRIOR PROVISIONS

A prior section 76-1, based on House Resolution No. 890, Ninety-second Congress, Oct. 4, 1972, as enacted into permanent law by Pub. L. 92-607, ch. V, § 508, Oct. 31, 1972, 86 Stat. 1509, which set forth the compensation of the Doorkeeper at equal to the annual rate of basic pay fixed for level IV of the Executive Schedule under section 5315 of Title 5, Government Organization and Employees, was omitted as superseded by this section.

Another prior section 76-1, based on House Resolution No. 909, Sept. 8, 1966, as enacted into permanent law by Pub. L. 89-697, ch. VI, § 601, Oct. 27, 1966, 80 Stat. 1064, which set forth the compensation of the Doorkeeper of the House at equal to the gross per annum rate of compensation of the Clerk of the House and the Sergeant at Arms of the House, was omitted as superseded by prior section 76-1 enacted by Pub. L. 92-607.

§ 77a. Compensation of Sergeant at Arms of the House of Representatives

Until otherwise provided by law, the Sergeant at Arms of the House of Representatives may be compensated at a rate not in excess of the rate of basic pay for one pay level above the maximum pay level for employees of the House of Representatives provided under clause 6(c) of Rule XI of the Rules of the House of Representatives.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on par. (3) of House Resolution No. 8, Ninety-fifth Congress, Jan. 4, 1977, which was enacted into permanent law by Pub. L. 95-94.

PRIOR PROVISIONS

A prior section 77a, based on House Resolution No. 890, Ninety-second Congress, Oct. 4, 1972, as enacted into permanent law by Pub. L. 92-607, ch. V, § 508, Oct. 31, 1972, 86 Stat. 1509, which set forth the compensation of the Sergeant at Arms at equal to the annual rate of basic pay fixed for level IV of the Executive Schedule under section 5315 of Title 5, Government Organization and Employees, was omitted as superseded by this section.

§ 84a-1. Official Reporter of Debates or Official Reporter to Committees; adjustment of compensation

Until otherwise provided by law, effective January 1, 1976, the gross salary of an Official

Reporter of Debates or an Official Reporter to Committees, whose pay is disbursed by the Clerk of the House and is fixed at a specific rate by House resolution, is increased by an amount equal to 5 per centum of his per annum gross rate of pay. Effective as of the effective date of each comparability adjustment, which becomes effective on or after January 1, 1976, in the rates of pay of the Federal statutory pay systems under section 5305 of title 5, or under such section 5305 as modified or otherwise changed by any other provision of law, the per annum gross rate of pay of an Official Reporter of Debates or an Official Reporter to Committees is increased by an amount equal to that per centum of his per annum gross rate of pay which is equal to the average per centum increase made in the pay rates of such statutory pay systems to achieve such pay comparability adjustment in the pay rates of such pay systems. No rate of pay shall be increased by reason of the enactment of this section to an amount in excess of the annual rate of basic pay of level V of the Executive Schedule contained in section 5316 of title 5. The contingent fund of the House is made available to carry out the purposes of this section.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on House Resolution No. 1495, Ninety-fourth Congress, Sept. 30, 1976, which was enacted into permanent law by Pub. L. 95-94.

§ 104a. Semiannual statements of expenditures by Secretary of the Senate and Clerk of the House of Representatives

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 58 of this title.

§ 119a. Repealed. Pub. L. 90-620, § 3, Oct. 22, 1968, 82 Stat. 1309

Section, act July 2, 1954, ch. 455, § 101, 68 Stat. 397, provided that on and after July 2, 1954, the Senate Folding Room shall be known as the Senate Service Department. See section 740 of Title 44, Public Printing and Documents.

§ 121a. Senate Barber Shops Revolving Fund

(a) Establishment

There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Barber Shops Revolving Fund (hereafter in this section referred to as the "revolving fund").

(b) Deposit of moneys received; disbursements for supplies and expenses

All moneys received by the Senate barber shops from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for necessary supplies and expenses of the Senate barber shops.

(c) Deposit as miscellaneous receipts of excess moneys in fund

On or before December 31 of each year, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in excess of $10,000 in the revolving fund at the close of the preceding fiscal year.

(d) Disbursements upon vouchers

Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) Regulations

The Sergeant at Arms and Doorkeeper of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) Repealed. Pub. L. 95-26, title I, § 107(a), May 4, 1977, 91 Stat. 85

(As amended Pub. L. 95-26, title I, § 107(a), May 4, 1977, 91 Stat. 85.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-26 substituted "Senate Barber Shops Revolving Fund" for "Senate Employees Barber Shop Revolving Fund".

Subsec. (b). Pub. L. 95-26 substituted "Senate barber shops" for "Senate employees barber shop" and "for necessary supplies and expenses of the Senate barber shops" for "for additional compensation of personnel of the Senate employees barber shop, as determined by the Sergeant at Arms and Doorkeeper of the Senate, and for necessary supplies for the Senate employees barber shop".

Subsec. (c). Pub. L. 95-26 substituted "all moneys in excess of $10,000 in the revolving fund at the close of the preceding fiscal year" for "an amount equal to the amount in the revolving fund at the close of the preceding fiscal year, reduced by the amount of outlays from the revolving fund after the close of such year attributable to obligations incurred during such year".

Subsecs. (d), (e). Pub. L. 95-26 re-enacted subsecs. (d) and (e) without change.

Subsec. (f). Pub. L. 95-26 struck out subsec. (f) which had provided that the section, as originally enacted by Pub. L. 94-440, was effective Oct. 1, 1976.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 107(b) of Pub. L. 95-26 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on April 1, 1977."

§ 122a. Reimbursement of House Members and Resident Commissioner for office expenses outside District of Columbia

REIMBURSEMENT OF EXPENSES OF HOUSE MEMBERS; MEMBER OF HOUSE OF REPRESENTATIVES AND MEMBER DEFINED

Section 302(a), (b), and (d) of House Resolution No. 287, Ninety-fifth Congress, Mar. 2, 1977, enacted into permanent law by Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668, provided that:

"(a) Notwithstanding any other provision of law and until otherwise provided by law—

"(1) effective Janauary 3, 1977, each Member of the House of Representatives shall be entitled to reimbursement under the nineteenth paragraph under the subheading 'CONTINGENT EXPENSES OF THE HOUSE' under the heading 'HOUSE OF REPRESENTATIVES' in the Legislative Appropriation Act, 1955 (2 U.S.C. 122a), or under chapter 4, section 401, of the Supplemental Appropriations Act, 1972 (2

U.S.C. 56), for any official expense incurred in the United States; and

"(2) the Clerk of the House may make disbursements under the paragraph referred to in paragraph (1) by (A) direct payment to the person from whom goods or services are obtained by the Member involved under such paragraph; or (B) reimbursement to the Member involved or person designated by the Member.

"(b) Effective January 3, 1978, notwithstanding any other provision of law and until otherwise provided by law, and conditional upon the adoption of a House rule prohibiting Members of the House of Representatives from maintaining unofficial office accounts, the entitlement of each Member of the House of Representatives under the nineteenth paragraph under the subheading 'CONTINGENT EXPENSES OF THE HOUSE' under the heading 'HOUSE OF REPRESENTATIVES' in the Legislative Appropriation Act, 1955 (2 U.S.C. 122a), or under chapter 4, section 401, of the Supplemental Appropriation Act, 1972 (2 U.S.C. 56), shall not exceed $7,000 annually.

"(d) For purposes of this section, the terms 'Member of the House of Representatives' and 'Member' mean each Representative in, or Delegate or Resident Commissioner to, the House of Representatives."

Section 302(a), (b), and (d) of House Resolution No. 287 is also set out as a note under section 56 of this title. Section 302(c) of such resolution is set out as a note under section 41 of this title.

§ 123c. Data processing equipment, softwares, and services

Notwithstanding any other provision of law, the Sergeant at Arms, subject to the approval of the Committee on Rules and Administration, is hereafter authorized to enter into multi-year contracts for data processing equipment, software, and services.

(As amended Pub. L. 95-26, title I, § 103, May 4, 1977, 91 Stat. 82.)

AMENDMENTS

1977—Pub. L. 95-26 substituted "multi-year contracts for data processing equipment, software, and services" for "multi-year leases for automatic data processing equipment".

§ 130. Participation by House in interparliamentary institutions; payment of expenses

[*See main edition for text of (a)*]

(b) There shall be paid out of the contingent fund of the House, until otherwise provided by law, such sums as may be necessary, but not to exceed $15,000 in any calendar year, for payment of expenses incurred in carrying out subsections (a) and (b) of this section, on vouchers signed by the chairman of the Committee on International Relations, and approved by the Committee on House Administration.

(As amended Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Amendment of section by Pub. L. 95-94 is based on House Resolution No. 434, Ninety-fifth Congress, Mar. 31, 1977, which was enacted into permanent law by Pub. L. 95-94.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-94 substituted "$15,000" for "$5,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2 of H. Res. 434 provided in part that amendment of this section is effective on the date of enactment of such section 2 into permanent law, Aug. 5, 1977, the date of approval of Pub. L. 95-94. See Codification note set out above.

AUTHORIZATION FOR PAYMENT OF EXPENSES FROM CONTINGENT FUND OF HOUSE OF REPRESENTATIVES FOR PARTICIPATORY ACTIVITIES

Section 1 of House Resolution No. 434, Ninety-fifth Congress, Mar. 31, 1977, enacted into permanent law by Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668, provided: "That, until otherwise provided by law, there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary, but not to exceed $15,000 in any calendar year, for the payment of expenses incurred in carrying out the first section of H. Res. 348, Eighty-seventh Congress, adopted June 29, 1961, and enacted as permanent law by the Legislative Branch Appropriation Act, 1963 (Public Law 87-730; 76 Stat. 680) [this section]."

CHAPTER 5—LIBRARY OF CONGRESS

Sec.
171. Congressional declaration of findings and purpose as to Center for the Book [New].
172. Definitions [New].
173. Establishment of Center for the Book [New].
174. Function of Center for the Book [New].
175. Administrative provisions [New].

§ 131. Collections composing Library; location

The Library of Congress, composed of the books, maps, and other publications which on December 1, 1873, remained in existence, from the collections theretofore united under authority of law and those added from time to time by purchase, exchange, donation, reservation from publications ordered by Congress, acquisition of material under the copyright law, and otherwise, shall be preserved in the Library Building. The law library shall be preserved in the Capitol in the rooms which were on July 4, 1872, appropriated to its use, and in such others as may hereafter be assigned thereto.

(As amended Oct. 19, 1976, Pub. L. 94-553, title I, § 105(g), 90 Stat. 2599.)

AMENDMENTS

1976—Pub. L. 94-553 substituted "acquisition of material under the copyright law" for "deposit to secure copyright".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553 set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

§ 142e. Disbursing Officer of the Library of Congress: disbursements for Congressional Budget Office, accountability; financial management support to Congressional Budget Office under agreement of Librarian of Congress and Director of Congressional Budget Office; Congressional Budget Office certifying officers: voucher certifications, accountability, relief by Comptroller General

The Disbursing Officer of the Library of Congress is authorized to disburse funds appropriated for the Congressional Budget Office, and the Library of Congress shall provide financial management support to the Congressional

Budget Office as may be required and mutually agreed to by the Librarian of Congress and the Director of the Congressional Budget Office. From and after January 1, 1976, the Library of Congress is authorized to compute and disburse the basic pay of all personnel of the Congressional Budget Office pursuant to the provisions of section 5504 of title 5, except the Director, who as head of an agency, shall have pay computed and disbursed pursuant to the provisions of section 5505 of title 5.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Congressional Budget Office duly authorized in writing by the Director of the Congressional Budget Office to certify payments from appropriations of the Congressional Budget Office. The Congressional Budget Office certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved, (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by him, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: *Provided,* That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: *Provided further,* That the Comptroller General shall relieve such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 66 of title 49, whenever he finds that the overpayment occurred solely because the administrative examination made prior to payment of the transportation bill did not include a verification of transportation rates, freight classifications, or land grant deduction.

The Disbursing Officer of the Library of Congress shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which is imposed upon a certifying officer or employee of the Congressional Budget Office.

(Pub. L. 95-94, title II, § 207, Aug. 5, 1977, 91 Stat. 678.)

SIMILAR PROVISIONS

Section is from the Legislative Branch Appropriation Act, 1978, Pub. L. 95-94. Similar provisions were contained in the following prior appropriations act:

Pub. L. 94-440, title VIII, § 808, Oct. 1, 1976, 90 Stat. 1458.

§ 143a. Disbursement of funds

REPEATED

Pub. L. 95-94, title II, § 203, Aug. 5, 1977, 91 Stat. 677.

§ 150. Sale of copies of card indexes and other publications

The Librarian of Congress is authorized to furnish to such institutions or individuals as may desire to buy them, such copies of the card indexes and other publications of the Library as may not be required for its ordinary transactions, and charge for the same a price which will cover their cost and ten per centum added, and all moneys received by him shall be deposited in the Treasury and shall be credited to the appropriation for necessary expenses for the preparation and distribution of catalog cards and other publications of the Library.

(As amended Aug. 5, 1977, Pub. L. 95-94, title IV, § 405(a), 91 Stat. 682.)

AMENDMENTS

1977—Pub. L. 95-94 added provisions relating to crediting of the moneys deposited in the Treasury.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 405(b) of Pub. L. 95-94 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1977."

§ 162. Compensation of Library of Congress employees

Employees of the Library of Congress who perform special functions for the performance of which funds have been entrusted to the board or the librarian, or in connection with cooperative undertakings in which the Library of Congress is engaged, shall not be subject to section 209 of title 18; and section 5533 of title 5 shall not apply to any additional compensation so paid to such employees.

(Mar. 3, 1925, ch. 423, § 6, 43 Stat. 1108; Jan. 27, 1926, ch. 6, § 2, 44 Stat. 2; Aug. 19, 1964, Pub. L. 88-448, title IV, § 401(j), 78 Stat. 491.)

CODIFICATION

"Section 209 of title 18" was substituted for reference to the Act of March 3, 1917, 39 Stat. 1106 (5 U.S.C. 66), on authority of (1) act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted Title 18, Crimes and Criminal Procedure, and which enacted in section 1914 of Title 18 the provisions formerly classified to section 66 of Title 5; and (2) section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 of title 18 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18.

"Section 5533 of title 5" was substituted for "section 301 of the Dual Compensation Act [5 U.S.C. 3105]" on authority of sec. 7(b) of Pub. L. 89-554, Sept. 6, 1966,

80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was also set out in sections 60 and 65 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

§ 167j. Area comprising Library of Congress grounds; buildings and grounds defined

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 136.

§ 169. Positions in Library of Congress exempt from citizenship requirement

REPEATED

Pub. L. 95-94, title II, § 202, Aug. 5, 1977, 91 Stat. 677.

§ 171. Congressional declaration of findings and purpose as to Center for the Book

The Congress hereby finds and declares—

(1) that the Congress of the United States on April 24, 1800, established for itself a library of the Congress;

(2) that in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) that the Congress of the United States in recognition of the importance of printing and its impact on America purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) that the Congress of the United States has through statute and appropriations made this library accessible to any member of the public;

(5) that this collection of books and other library materials has now become one of the greatest libraries in civilization;

(6) that the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two hundred-year history;

(7) that in the year 1977, the Congress of the United States assembled hereby declares its reaffirmation of the importance of the printed word and the book and recognizes the importance of a Center for the Book to the continued study and development of written record as central to our understanding of ourselves and our world.

It is therefore the purpose of sections 171 to 175 of this title to establish a Center for the Book in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

(Pub. L. 95-129, § 1, Oct. 13, 1977, 91 Stat. 1151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 172 of this title.

§ 172. Definitions

As used in sections 171 to 175 of this title—

(1) the term Center means the Center for the Book;

(2) the term Librarian means the Librarian of Congress.

(Pub. L. 95-129, § 2, Oct. 13, 1977, 91 Stat. 1151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 171 of this title.

§ 173. Establishment of Center for the Book

There is hereby established in the Library of Congress a Center for the Book.

The Center shall be under the direction of the Librarian of Congress.

(Pub. L. 95-129, § 3, Oct. 13, 1977, 91 Stat. 1151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 171, 172 of this title.

§ 174. Function of Center for the Book

The Librarian through the Center shall stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

(Pub. L. 95-129, § 4, Oct. 13, 1977, 91 Stat. 1152.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 171, 172 of this title.

§ 175. Administrative provisions

The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without reference to Federal disposal statutes; and

(3) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5.

(Pub. L. 95-129, § 5, Oct. 13, 1977, 91 Stat. 1152.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 171, 172 of this title.

CHAPTER 6—CONGRESSIONAL AND COMMITTEE PROCEDURE; INVESTIGATIONS

§ 190. Repealed. S. Res. 4, § 301(b), Feb. 4, 1977

Section, act Aug. 2, 1946, ch. 753, title I, § 137, 60 Stat. 832, directed that controversies arising as to the jurisdiction of any standing committee of the Senate with respect to any proposed legislation be decided by the presiding officer of the Senate in favor of the com-

mittee having jurisdiction over the subject matter which predominated in the proposed legislation.

§ 190a. Committee meetings

[*See main edition for text of* (*a*)]

(b) Record of committee action; public announcement of committee votes

Each such committee shall keep a complete record of all committee action. Such record shall include a record of the votes on any question on which a record vote is demanded. The results of rollcall votes taken in any meeting of any such standing committee of the Senate upon any measure, or any amendment thereto, shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee who was present at that meeting.

[*See main edition for text of* (*c*) *to* (*h*)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct error appearing in the main edition, in which all of subsec. (b) was shown to have been repealed by S. Res. 9. In fact, only the first sentence of subsec. (b) was repealed by S. Res. 9.

AMENDMENTS

1975—Subsec. (b). S. Res. 9 struck out provisions which had required that meetings of standing committees of the Senate for the transaction of business be open to the public except during executive sessions for marking up bills or for voting or when the committee by majority vote ordered an executive session.

§ 190b. Authority of Senate standing committees and subcommittees

[*See main edition for text of* (*a*)]

(b) Repealed. S.Res. 4, § 402(c), Feb. 4, 1977.

(As amended S.Res. 4, § 402(c), Feb. 4, 1977.)

AMENDMENTS

1977—Subsec. (b). S.Res. 4, repealed subsec. (b) which directed that, with certain specified exceptions, standing committees of the Senate not sit without special leave while the Senate is in session.

§ 190j. Cost estimates in reports of Senate committees accompanying certain legislative measures; Committee on Appropriations exception; report information

[*See main edition for text of* (*1*) *and* (*2*)]

(3) Repealed. Aug. 1, 1946, ch. 724, § 302(d), as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884.

(As amended Aug. 1, 1946, ch. 724, § 302(d), as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884.)

AMENDMENTS

1977—Par. (3). Pub. L. 95-110 repealed par. (3) which provided that, for purposes of the section, members of the Joint Committee on Atomic Energy who were members of the Senate were to be deemed a committee of the Senate.

CHAPTER 9—OFFICE OF LEGISLATIVE COUNSEL

§ 282b. Compensation

[*See main edition for text of* (*a*)]

(b) Members of the staff of the Office other than the Legislative Counsel shall be paid at per annum gross rates fixed by the Legislative Counsel with the approval of the Speaker or in accordance with policies approved by the Speaker, but not in excess of the rate of basic pay for one pay level above the maximum pay level for employees of the House of Representatives provided under clause 6(c) of Rule XI of the Rules of the House of Representatives.

(As amended Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Amendment by Pub. L. 95-94 is based on par. (2) of House Resolution No. 8, Ninety-fifth Congress, Jan. 4, 1977, which was enacted into permanent law by Pub. L. 95-94.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-94 substituted provisions authorizing compensation at a rate not in excess of the rate of basic pay for one pay level above the maximum pay level for House employees provided under cl. 6(c) of Rule XI of the Rules of the House of Representatives, for provisions authorizing compensation at per annum gross rates not in excess of a per annum gross rate equal to the rate of basic pay for level V of the Executive Schedule of section 5316 of title 5.

CHAPTER 9C—OFFICE OF THE PARLIAMENTARIAN OF THE HOUSE OF REPRESENTATIVES [NEW]

Sec.
287. Establishment.
287a. Parliamentarian.
287b. Staff; Deputy Parliamentarian; delegation of functions.
287c. Compensation.
287d. Expenditures.

§ 287. Establishment

There is hereby established in the House of Representatives an office to be known as the Office of the Parliamentarian, hereinafter in this chapter referred to as the "Office".

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on section 1 of House Resolution No. 502, Ninety-fifth Congress, Apr. 20, 1977, which was enacted into permanent law by Pub. L. 95-94.

EFFECTIVE DATE

Section 6 of H. Res. 502, Apr. 20, 1977, as enacted into permanent law by section 115 of Pub. L. 95-94, provided that: "This resolution [this chapter] shall take effect as of March 1, 1977, and shall continue in effect until otherwise provided by law."

§ 287a. Parliamentarian

The management, supervision, and administration of the Office shall be vested in the Parliamentarian, who shall be appointed by the Speaker of the House of Representatives without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed shall serve at the pleasure of the Speaker.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on section 2 of House Resolution No. 502, Ninety-fifth Congress, Apr. 20, 1977, which was enacted into permanent law by Pub. L. 95-94.

CROSS REFERENCES

Parliamentarian to compile precedents of House, see sections 28, 29 of this title.

§ 287b. Staff; Deputy Parliamentarian; delegation of functions

(a) With the approval of the Speaker, or in accordance with policies and procedures approved by the Speaker, the Parliamentarian shall appoint such attorneys and other employees as may be necessary for the prompt and efficient performance of the functions of the Office. Any such appointment shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed may be removed by the Parliamentarian with the approval of the Speaker, or in accordance with policies and procedures approved by the Speaker.

(b)(1) One of the attorneys appointed under subsection (a) of this section shall be designated by the Parliamentarian as Deputy Parliamentarian. During the absence or disability of the Parliamentarian, or when the office is vacant, the Deputy Parliamentarian shall perform the functions of the Parliamentarian.

(2) The Parliamentarian may delegate to the Deputy Parliamentarian and to other employees appointed under subsection (a) of this section such of the functions of the Parliamentarian as the Parliamentarian considers necessary or appropriate.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on section 3 of House Resolution No. 502, Ninety-fifth Congress, Apr. 20, 1977, which was enacted into permanent law by Pub. L. 95-94.

§ 287c. Compensation

(a) The Parliamentarian shall be paid at a per annum gross rate established by the Speaker but not in excess of the rate of basic pay determined from time to time under subsection (b) of section 3 of the Speaker's salary directive of June 11, 1968.

(b) Members of the staff of the Office other than the Parliamentarian shall be paid at per annum gross rates fixed by the Parliamentarian with the approval of the Speaker or in accordance with policies approved by the Speaker, but not in excess of the rate of basic pay set forth in subsection (a) of this section.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

REFERENCES IN TEXT

Subsection (b) of section 3 of the Speaker's salary directive of June 11, 1968, referred to in subsec. (a), is set out as a note under section 60a-2 of this title.

CODIFICATION

Section is based on section 4 of House Resolution No. 502, Ninety-fifth Congress, Apr. 20, 1977, which was enacted into permanent law by Pub. L. 95-94.

§ 287d. Expenditures

In accordance with policies and procedures approved by the Speaker, the Parliamentarian may make such expenditures as may be necessary or appropriate for the functioning of the Office.

(Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 668.)

CODIFICATION

Section is based on section 5 of House Resolution No. 502, Ninety-fifth Congress, Apr. 20, 1977, which was enacted into permanent law by Pub. L. 95-94.

CHAPTER 11—COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

§ 356. Functions of Commission

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 359 of this title.

§ 356a. Omitted

CODIFICATION

Section, Pub. L. 94-440, title II, § 100, Oct. 1, 1976, 90 Stat. 1446, which provided salary rate limitations for positions or offices referred to in section 356 of this title, was omitted because it applied to fiscal year 1977. See decision B-145492 of the Comptroller General of the United States, dated Sept. 21, 1976. Pub. L. 94-440, title II, § 100, is now set out as a note under section 5318 of Title 5, Government Organization and Employees.

§ 358. Recommendations of the President to Congress

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31 of this title; title 11 section 68; title 28 sections 5, 44, 135, 173, 213, 252, 792.

§ 359. Effective date of Presidential recommendations

(1) Within sixty calendar days of the submission of the President's recommendations to the Congress, each House shall conduct a separate vote on each of the recommendations of the President with respect to the offices and positions described in subparagraphs (A), (B), (C), and (D) of section 356 of this title, and shall thereby approve or disapprove the recommendations of the President regarding each such subparagraph. Such votes shall be recorded so as to reflect the votes of each individual Member thereon. If both Houses approve by majority vote the recommendations pertaining

to the offices and positions described in any such subparagraph, the recommendations shall become effective for the offices and positions covered by such subparagraph at the beginning of the first pay period which begins after the thirtieth day following the approval of the recommendation by the second House to approve the recommendation.

(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made operative on a date later than the date on which such recommendations otherwise are to take effect.

(As amended Pub. L. 95-19, title IV, § 401(a), Apr. 12, 1977, 91 Stat. 45.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-19 substituted provisions directing each house of the Congress to conduct a separate vote within sixty days on each Presidential recommendation with respect to the offices and positions described in section 356(A), (B), (C), and (D) of this title, with the votes to be recorded so as to reflect the votes of each individual member and with each recommendation, if approved, to become effective for the offices and positions covered at the beginning of the first pay period which begins after the thirtieth day following the approval of the recommendation by the second house of the Congress to approve the recommendation, for provisions directing that all or part of the recommendations of the President transmitted to the Congress in the budget under section 358 of this title be effective at the beginning of the first pay period beginning after the thirtieth day following the transmittal of the recommendations to the budget, but only to the extent that, between the date of transmittal of the recommendations in the budget and the beginning of the pay period, there has not been enacted into law a statute establishing rates of pay other than the rates set in the recommendation, neither house of the Congress specifically disapproves all or part of the recommendations, or both.

Par. (2). Pub. L. 95-19 re-enacted par. (2) without change.

§ 360. Effect of Presidential recommendations on existing law and prior recommendations

The recommendations of the President transmitted to the Congress immediately following a review conducted by the Commission in one of the fiscal years referred to in section 352(2) and (3) of this title shall, if approved by the Congress as provided in section 359 of this title, be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations (other than any provision of law enacted in the period specified in paragraph (1) of section 359 of this title with respect to such recommendations), and

(B) any prior recommendations of the President which take effect under this chapter.

(As amended Pub. L. 95-19, title IV, § 401(b), Apr. 12, 1977, 91 Stat. 46.)

AMENDMENTS

1977—Pub. L. 95-19 inserted ", if approved by the Congress as provided in section 359 of this title,".

CHAPTER 14—FEDERAL ELECTION CAMPAIGNS

§ 431. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 58, 437a of this title; title 22 section 901a; title 26 section 6012; title 42 sections 2943, 5043.

§ 439c. Authorization of appropriations

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed $5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $6,000,000 for the fiscal year ending September 30, 1977, and $7,811,500 for the fiscal year ending September 30, 1978.

(As amended Pub. L. 95-127, Oct. 12, 1977, 91 Stat. 1110.)

AMENDMENTS

1977—Pub. L. 95-127 added provisions authorizing appropriations of $7,811,500 for the fiscal year ending Sept. 30, 1978.

§ 441i. Acceptance of excessive honoraria

(a) Prohibited practices

No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or

(2) honoraria (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

(b) Payment of honorarium to charitable organization; definition

If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of subsection (a) of this section, as accepting that honorarium. For purposes of this subsection, the term "charitable organization" means an organization described in section 170(c) of title 26.

(c) Aggregate amount received during any calendar year

For purposes of determining the aggregate amount of honoraria received by a person during any calendar year, amounts returned to the person paying an honorarium before the

close of the calendar year in which it was received shall be disregarded.

(d) Time of acceptance of honorarium

For purposes of paragraph (2) of subsection (a) of this section, an honorarium shall be treated as accepted only in the year in which that honorarium is received.

(As amended Pub. L. 95-216, title V, § 502(a), Dec. 20, 1977, 91 Stat. 1565.)

AMENDMENTS

1977—Pub. L. 95-216 designated existing provisions as subsec. (a) and added subsecs. (b), (c), and (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 502(b) of Pub. L. 95-216 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any honorarium received after December 31, 1976."

TITLE 3—THE PRESIDENT

This title was enacted by act June 25, 1948, ch. 644, § 1, 62 Stat. 672

Chap.		Sec.
3.	Protection of the President; the White House Police[1]	201

CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

[*See main edition for text of (a) to (c)*]

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy.

[*See main edition for text of (2) and (3); (e) and (f)*]

(As amended Aug. 4, 1977, Pub. L. 95-91, title VII, § 709(g), 91 Stat. 609.)

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-91 added the Secretary of Energy following the Secretary of Transportation in the enumeration of officers designated to act as President.

CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

REORGANIZATION PLAN NO. 1 OF 1977

42 F.R. 56101, 91 Stat. 1633

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 15, 1977[2], pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

EXECUTIVE OFFICE OF THE PRESIDENT

SECTION 1. REDESIGNATION OF DOMESTIC COUNCIL STAFF

The Domestic Council staff is hereby designated the Domestic Policy Staff and shall consist of such staff personnel as are determined by the President to be necessary to assure that the needs of the President for prompt and comprehensive advice are met with respect to matters of economic and domestic policy. The staff shall continue to be headed by an Executive Director who shall be an Assistant to the President, designated by the President, as provided in Section 203 of Reorganization Plan No. 2 of 1970 [set out in the Appendix to Title 5, Government Organization and Employees]. The Executive Director shall perform such functions as the President may from time to time direct.

SEC. 2. ESTABLISHMENT OF AN OFFICE OF ADMINISTRATION

There is hereby established in the Executive Office of the President the Office of Administration which shall be headed by the President. There shall be a Director of the Office of Administration. The Director shall be appointed by the President and shall serve as chief administrative officer of the Office of Administration. The President is authorized to fix the compensation and duties of the Director.

The Office of Administration shall provide components of the Executive Office of the President with such administrative services as the President shall from time to time direct.

SEC. 3. ABOLITION OF COMPONENTS

The following components of the Executive Office of the President are hereby abolished:

A. The Domestic Council;
B. The Office of Drug Abuse Policy;
C. The Office of Telecommunications Policy; and
D. The Economic Opportunity Council.

SEC. 4. APPOINTMENT OF THE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION

There shall be in the Department of Commerce an Assistant Secretary for Communications and Information who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule [5 U.S.C. 5315].

SEC. 5. TRANSFERS OF FUNCTIONS

The following functions shall be transferred:

A. All functions vested in the Director of the Office of Science and Technology Policy and in the Office of Science and Technology Policy pursuant to sections 205(a)(2), 206 and 209 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282; 90 Stat. 459) [sections 6614(a)(2), 6615 and 6618 of Title 42, The Public Health and Welfare], are hereby transferred to the Director of the National Science Foundation. The Intergovernmental Science, Engineering, and Technology Advisory Panel, the President's Committee on Science and Technology, and the Federal Coordinating Council for Science, Engineering and Technology, established in accordance with the provisions of Titles II, III, IV of the National Science and Technology Policy, Organization, and Priorities Act of 1976 [sec-

[1] Chapter heading amended to read "Protection of the President; United States Secret Service Uniformed Division" by Pub. L. 95-179 without amending chapter analysis.

[2] As amended Sept. 15, 1977.

tions 6611 et seq., 6631 et seq., and 6651 et seq. of Title 42], are hereby abolished, and their functions transferred to the President.

B. Those functions of the Office of Telecommunications Policy and of its Director relating to:

(1) the preparation of Presidential telecommunications policy options including, but not limited to those related to the procurement and management of Federal telecommunications systems, national security, and emergency matters; and

(2) disposition of appeals from assignments of radio frequencies to stations of the United States Government; are hereby transferred to the President who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable. All other functions of the Office of Telecommunications Policy and of its Director are hereby transferred to the Secretary of Commerce who shall provide for the performance of such functions.

C. The functions of the Office of Drug Abuse Policy and its Director are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

D. The functions of the Domestic Council are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

E. Those functions of the Council on Environmental Quality and the Office of Environmental Quality relating to the evaluation provided for by Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577, 88 Stat. 1878) [section 5910 of Title 42], are hereby transferred to the Administrator of the Environmental Protection Agency.

F. Those functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat (Public Law 92-463, 86 Stat. 770, as amended by Public Law 94-409, 90 Stat. 1247) [see section 7 of the Federal Advisory Committee Act, Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 774, as amended, set out in the Appendix to Title 5, Government Organization and Employees] are hereby transferred to the Administrator of General Services.

G. The functions of the Economic Opportunity Council are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

Sec. 6. Incidental Transfers

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Sec. 7. Effective Date

This Reorganization Plan shall become effective at such time or times on or before April 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I herewith transmit my plan for the Reorganization of the Executive Office of the President (EOP), Reorganization Plan No. 1 of 1977. This plan is the first of a series I intend to submit under the reorganization authority vested in me by the Reorganization Act of 1977 (Public Law 95-17). It adheres to the purposes set forth in Section 901(a) of the Act [see section 901(a) of Title 5, Government Organization and Employees].

This plan in conjunction with the other steps I am taking will:

Eliminate seven of the seventeen units now within the EOP and modify the rest. There were 19 units when I took office; the President's Foreign Intelligence Advisory Board and the Economic Policy Board have already been abolished. Thus with this plan I will have eliminated nine of 19 EOP units.

Reduce EOP staffing by about 250 which includes the White House staff reduction of 134 or 28 percent which I have already ordered.

Improve efficiency by centralizing administrative functions; and

Improve the process by which information is provided for Presidential decisionmaking.

These recommendations arise from a careful, systematic study of the EOP. They are based on the premise that the EOP exists to serve the President and should be structured to meet his needs. They will reduce waste and cost while improving the service the President, and the nation, receive from the EOP.

The EOP now consists of the immediate White House Office, the Vice President's Office, the Office of Management and Budget, and fourteen other agencies. The EOP has a budget authority of about $80,000,000 and 1,712 full time employees.

The White House Office concentrates on close personal support including policy and political advice and administrative and operational services. The Office of the Vice President provides similar support to him. OMB's primary mission is to develop and implement the budget; it also carries out a number of management and reorganization activities.

Three EOP units have responsibility for policy development:

National Security Council.
Domestic Council.
Council on International Economic Policy.

The other 11 are more specialized offices that offer analysis and advice, help develop policy in certain areas, or carry out special projects. These are:

Council of Economic Advisers.
Council on Wage and Price Stability.
Office of the Special Representative for Trade Negotiations.
Council on Environmental Quality.
Office of Science and Technology Policy.
Office of Drug Abuse Policy.
Office of Telecommunications Policy.
Intelligence Oversight Board.
Federal Property Council.
Energy Resources Council.
Economic Opportunity Council.

To make the EOP more effective, four steps are necessary:

I. Strengthen management of policy issues.
II. Limit the EOP, wherever possible, to functions directly related to the President's work.
III. Centralize administrative services.
IV. Reduce size of White House and EOP staffs.

I. STRENGTHEN PROCESS MANAGEMENT OF POLICY ISSUES

Perhaps the most important function of the President's staff is to make sure he has the wide variety of views and facts he needs to make decisions. By building a more orderly system for collecting information and advice, the President can make sure that he will

hear all the views he should—and hear them in time. To better insure that this happens, I am taking the following actions to:

Institute for domestic and economic issues, a system similar to the Presidential Review Memorandum process currently used for National Security issues.

Create a committee of Presidential advisers, chaired by the Vice President, to set priorities among issues and oversee their staffing.

Assure that Presidential decision memoranda on policy issues are coordinated with Cabinet and EOP advisers most involved with the issue.

Consolidate under the Staff Secretary the two current White House paper circulation systems.

Appoint a group of advisers to review the decision-making process periodically.

Give the Assistant to the President for Domestic Affairs and Policy clear responsibility for managing the way in which domestic and most economic policy issues are prepared for Presidential decision.

Assign follow-up responsibility for Presidential decisions as follows: immediate follow-up will be handled by the NSC or Domestic Policy Staff most directly involved in the issue; long term follow-up on selected issues will be handled by the Assistant to the President for Intergovernmental Relations.

These actions recognize that the White House and Executive Office staff must use their proximity to the President to insure that the full resources of the government and the public are brought to bear on Presidential decisions in a timely fashion. It is my purpose in instituting these changes to strengthen Cabinet participation in Presidential decisions.

II. RATIONALIZE EOP STRUCTURE BY LIMITING EOP, WHEREVER POSSIBLE, TO FUNCTIONS WHICH BEAR A CLOSE RELATIONSHIP TO THE WORK OF THE PRESIDENT

As the President's principal staff institution, there are several major things the EOP must do:

Provide day-to-day operational support (e. g. scheduling, appointments) and help the President communicate with the public, the Congress, and the press.

Manage the budget and coordinate Administration positions on matters before the Congress.

Manage the Presidential decisionmaking processes efficiently and fairly, and bring the President the widest possible range of opinions.

Help the President: plan and set priorities; monitor and evaluate progress toward achieving the President's objectives; understand and resolve major conflicts among line subordinates; manage crises, especially in national security matters.

In order to restructure the EOP around these basic functions, the functions of seven units should be discontinued or transferred, and ten units, including the White House Office, should be retained but modified.

Seven units should be discontinued or their functions transferred. These are:

1. Office of Drug Abuse Policy.
2. Office of Telecommunications Policy.
3. Council on International Economic Policy.
4. Federal Property Council.
5. Energy Resources Council.
6. Economic Opportunity Council.
7. Domestic Council.

The functions of the Office of Drug Abuse Policy (ODAP) can be performed by a smaller staff reporting to a Presidential adviser in the EOP. The Office itself will be discontinued.

Much of the work done by the Office of Telecommunications Policy (OTP) can be more effectively performed outside the EOP. It is important that the EOP have the capacity to resolve differences and that the President have immediate advice on telecommunications and information policy, especially on national security, emergency preparedness and privacy issues. This only requires a small staff within EOP. The Office of Management and Budget would take responsibility for Federal telecommunications procurement and management policy and arbitration of interagency disputes about frequency allocation. All other functions except developing Presidential policy options would be transferred to a new office within the Department of Commerce, headed by a new Assistant Secretary for Communications and Information, who will perform many of the functions previously performed by the head of the OTP.

I propose that the Economic Opportunity Council be discontinued; it is dormant and its only active function (preparation of the Catalogue of Federal Domestic Assistance) is being performed by OMB. Three other units are also inactive and should be discontinued: Council on International Economic Policy, the Federal Property Council, and the Energy Resources Council.

The Domestic Council should be abolished. It has rarely functioned as a Council, because it is too large and its membership too diverse to make decisions efficiently. Its functions have been performed entirely by its staff. This Domestic Policy Staff should report to the Assistant to the President for Domestic Affairs and Policy. Under the policy process system described earlier, they should manage the process which coordinates the making of domestic and most economic policy. They should work closely with the Cabinet departments and agencies to insure that the views of the Cabinet and agency heads are brought to the President before decisions are made.

The ten EOP units which will continue with some modification are:

1. White House Office.
2. Office of the Vice President.
3. Office on Management and Budget.
4. Council on Environmental Quality.
5. Council of Economic Advisers.
6. Office of Science and Technology Policy.
7. Office of the Special Representative for Trade Negotiations.
8. National Security Council.
9. Intelligence Oversight Board.
10. Council on Wage and Price Stability.

The operations of the Office of the Vice President reflect the combination of constitutional, statutory, and Presidentially assigned duties that make it unique among EOP units. Because his interests and assignments cover the same range as the President's, the Vice President requires a staff with expertise in diverse areas. Its basic functions should not be changed. However, I propose that certain support functions—involving accounting, personnel services, and supply—be transferred to a centralized EOP Administrative Unit.

The Office of Management and Budget would remain as a separate entity in the EOP, but some functional changes should be made. Four functions should be transferred from OMB to other parts of the government:

Administration to the new EOP Central Administrative Unit;

Executive Department/Labor Relations (except for Pay Agent, Executive Level Pools, and Legislative Analysis) to the Civil Service Commission;

Advisory Committee Management Secretariat to the General Services Administration;

Statistical Policy (except Forms Clearance) to the Department of Commerce.

I have asked the OMB to reorganize its management arm to emphasize major Presidential initiatives, such as reorganization, program evaluation, paperwork reduction, and regulatory reform.

The Council on Environmental Quality (CEQ) should remain in the EOP as an environmental adviser to the President. The CEQ's major purpose is to provide an independent assessment of our policies for improving the environment. Toward this end, it will analyze long term trends and conditions in the environment. It will advise OMB on the reorganization of nat-

ural resources functions within the Federal government. The Council will retain the functions it now has under NEPA and Executive Order No. 11514 with the exception of routine review of the adequacy of impact statements and the administrative aspects of their receipt and handling. The EPA will take over CEQ's evaluation responsibility under the Federal Nonnuclear Energy Research Development Act of 1974 [section 5901 et seq. of Title 42, The Public Health and Welfare]. The CEQ will continue to review and publish the Annual Report on Environmental Quality.

The strength of the Council of Economic Advisers (CEQ) lies in its economic analysis of current policy choices. It also presents objective economic data, makes macroeconomic forecasts, and analyzes economic trends and their impact on the national economy. It will continue with a small reduction in staff.

The Office of Science and Technology Policy (OSTP) should retain those science, engineering, and technology functions which can be so useful in helping the President and his advisers make decisions about policy and budget issues. Instead of the Intergovernmental Science, Engineering, and Technology Advisory Panels, the President should rely on an intergovernmental relations working group, chaired by the Science Adviser. The Federal Coordinating Council on Science and Technology should operate as a sub-Cabinet working group chaired by the Science Adviser. The reorganization work of the President's Committee on Science and Technology would be part of the overall reorganization effort. The responsibility for preparing certain reports should be transferred to the National Science Foundation.

The proposal places manageable limits on OSTP's broad mandate while emphasizing functions that support the President.

The Office of the Special Representative for Trade Negotiations (STR) is now operating effectively and will be retained essentially as is. With the difficult negotiations now underway in Geneva, the benefits of transferring the STR to another agency are outweighed by the potential reduction in its effectiveness as an international negotiator.

The National Security Council (NSC) will be retained in its present form and its staff slightly reduced.

Intelligence Oversight Board (IOB) should be retained to insure that abuses of the past are not repeated and to emphasize Presidential concerns regarding intelligence issues.

The Council of Wage and Price Stability (COWPS) is a necessary weapon in the continuing fight against inflation and will be retained. To be sure that its work is closely coordinated with the economic analyses performed by the Council of Economic Advisers (CEA), COWPS should be directed by the Chairman of CEA.

III. CENTRALIZE ADMINISTRATIVE FUNCTIONS

About 380 (22 percent) of the full-time, permanent EOP personnel perform administrative support services in EOP units. Most EOP units besides the White House and OMB are too small to provide a full complement of administrative services. They depend on the White House, OMB, GSA, other federal departments, or several of these sources for many of these services. This approach is inefficient; the quality is uneven and the coordination poor. Some services are duplicated, others inconsistently distributed (excess capacity in some units and deficiencies in others), and most too costly.

I propose to combine administrative support operations into a Central Administrative Unit in EOP to provide support in administrative services common to all EOP entities. It should be a separate EOP entity because of the need to assure equal access by all other units.

This consolidation will result in:

Saving of roughly 40 positions and about $1.1 million, improved and more innovative services.

A focus for monitoring the efficiency and responsibility of administrative services.

A base for an effective EOP budget/planning system through which the President can manage an integrated EOP rather than a collection of disparate units.

The EOP has never before been organized as a single, unified entity serving the President. It is only by viewing it as a whole that we can improve efficiency through steps like the Central Administrative Unit.

IV. REDUCE THE SIZE OF WHITE HOUSE AND EOP STAFFS

I am reducing the White House staff by 28 percent, from the 485 I inherited from my predecessor to 351. This involves cuts in my policy and administrative staffs as well as transfers to the Central Administrative Unit.

I estimate that this plan and the other steps I am taking will reduce staff levels in the EOP by about 250, from 1,712 full-time permanent positions to about 1,460 and will save the taxpayers at least $6 million.

As in the rest of the government, I will be reluctant to add staff unless necessary to help me do my job better.

I ask that you support me in improving the operations of the Executive Office of the President by approving the attached reorganization plan.

In summary this plan would:

Abolish the Domestic Council and establish a Domestic Policy Staff.

Establish within the EOP a Central Administrative Unit.

Transfer certain functions of the Council on Environmental Quality to the President for redelegation.

Abolish the Office of Drug Abuse Policy and vest functions in the President for redelegation.

Abolish the Office of Telecommunications Policy and transfer functions to the Department of Commerce and to the President for redelegation.

Create an Assistant Secretary of Commerce for Communications and Information.

Vest some Office of Science and Technology Policy functions in the President for redelegation.

Abolish the Economic Opportunity Council and vest those functions in the President for redelegation.

Transfer the Committee Management Secretariat function of the Office of Management and Budget to the President for redelegation.

Make other incidental transfers attendant to those mentioned above.

Each of the changes set forth in the plan accompanying this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. I have taken care to determine that all functions abolished by the plan are done so only under statutory authority provided by Section 903(b) of Title 5 of the United States Code. The provisions in the plan for the appointment and pay of any head or officer of any agency have been found by me to be necessary.

As we continue our studies of other parts of the Executive Branch, we will find more ways to improve services in the EOP and elsewhere. This plan is only a beginning, but I am confident that it represents a major step toward a more efficient government that will serve the needs of the people and the President well.

JIMMY CARTER.

THE WHITE HOUSE, July 15, 1977.

EX. ORD. NO. 12028. OFFICE OF ADMINISTRATION IN EXECUTIVE OFFICE OF PRESIDENT

Ex. Ord. No. 12028, Dec. 12, 1977, 42 F.R. 62895, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended [act July 26, 1947, ch. 343, 61 Stat. 495], Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)) [set out as a note above], and as President of the United States of America, in order to effectuate the establishment of the Office of Administration in the Executive Office of the President, it is hereby ordered as follows:

SECTION 1. The establishment, provided by Section 2 of Reorganization Plan No. 1 of 1977 (42 F.R. 56101) [set out as a note above], of the Office of Administration in the Executive Office of the President shall be effective, as authorized by Section 7 of that Plan [set out as a note above], on December 4, 1977.

SEC. 2. The Director of the Office of Administration, hereinafter referred to as the Director, shall report to the President. As the chief administrative officer of the Office of Administration, the Director shall be responsible for ensuring that the Office of Administration provides units within the Executive Office of the President common administrative support and services.

SEC. 3. (a) The Office of Administration shall provide common administrative support and services to all units within the Executive Office of the President, except for such services provided primarily in direct support of the President. The Office of Administration shall, upon request, assist the White House Office in performing its role of providing those administrative services which are primarily in direct support of the President.

(b) The common administrative support and services provided by the Office of Administration shall encompass all types of administrative support and services that may be used by, or useful to, units within the Executive Office of the President. Such services and support shall include, but not be limited to, providing support services in the following administrative areas:

(1) personnel management services, including equal employment opportunity programs;

(2) financial management services;

(3) data processing, including support and services;

(4) library, records, and information services;

(5) office services and operations, including: mail, messenger, printing and duplication, graphics, word processing, procurement, and supply services; and

(6) any other administrative support or service which will achieve financial savings and increase efficiency through centralization of the supporting service.

(c) Administrative support and services shall be provided to all units within the Executive Office of the President in a manner consistent with available funds and other resources, or in accord with Section 7 of the Act of May 21, 1920 (41 Stat. 613), as amended (31 U.S.C. 686, referred to as the Economy Act).

SEC. 4. (a) Subject to such direction or approval that the President may provide or require, the Director shall:

(1) organize the Office of Administration;

(2) employ personnel;

(3) contract for supplies or services; and

(4) do all other things that the President, as head of the Office of Administration, might do.

(b) The Director shall not be accountable for the program and management responsibilities of units within the Executive Office of the President; the head of each unit shall remain responsible for those functions.

SEC. 5. The primary responsibility for performing all administrative support and service functions of units within the Executive Office of the President shall be transferred and reassigned to the Office of Administration; except to the extent those functions are vested by law in the head of such a unit, other than the President; and except to the extent those functions are performed by the White House Office primarily in direct support of the President.

SEC. 6. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order from units within the Executive Office of the President to the Office of Administration, shall be transferred to the Office of Administration.

SEC. 7. (a) The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

(b) Such transfers shall become effective on April 1, 1978, or at such earlier time or times as the Director of the Office of Management and Budget determines, after consultation with the Director of the Office of Administration and other appropriate units within the Executive Office of the President.

JIMMY CARTER.

§ 102. Compensation of the President

FORMER PRESIDENTS; ALLOWANCE; SELECTION, COMPENSATION, AND STATUS OF OFFICE STAFF; OFFICE SPACE; WIDOW'S ALLOWANCE, TERMINATION; "FORMER PRESIDENT" DEFINED

Pub. L. 85-745, Aug. 25, 1958, 72 Stat. 838, as amended by Pub. L. 86-682, § 12(c), Sept. 2, 1960, 74 Stat. 730; Pub. L. 88-426, title I, § 124, Aug. 14, 1964, 78 Stat. 412; Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 660; Pub. L. 90-206, title II, § 224(c), Dec. 16, 1967, 81 Stat. 642; Pub. L. 91-231, § 7, Apr. 15, 1970, 84 Stat. 198; Pub. L. 91-658, § 6, Jan. 8, 1971, 84 Stat. 1963; Pub. L. 95-138, § 1, Oct. 18, 1977, 91 Stat. 1170, provided that:

* * * * *

"(b) The Administrator of General Services shall, without regard to the civil-service and classification laws, provide for each former President an office staff. Persons employed under this subsection shall be selected by the former President and shall be responsible only to him for the performance of their duties. Each former President shall fix basic rates of compensation for persons employed for him under this paragraph which in the aggregate shall not exceed $96,000 per annum except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum. The annual rate of compensation payable to any such person shall not exceed the highest annual rate of basic pay now or hereafter provided by law for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code."

* * * * *

Pub. L. 95-138, § 2, Oct. 18, 1977, 91 Stat. 1170, provided that: "The amendment made by the first section of this Act [amending this note] shall take effect October 1, 1977."

§ 104. Salary of the Vice President

1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR VICE PRESIDENT

Pub. L. 95-66, § 1(1), July 11, 1977, 91 Stat. 270, set out as a note under section 5318 of Title 5, Government Organization and Employees, provided that the first adjustment which, but for the enactment of Pub. L. 95-66, would have been made in the annual rate of pay for the Vice President under the second sentence of this section after July 11, 1977, would not take effect.

EXECUTIVE ORDER NO. 11941

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 5332 of Title 5.

§ 105. Compensation of secretaries and executive, administrative, and staff assistants to President

TRANSFER OF FUNCTIONS

The Economic Opportunity Council, referred to in text, was abolished and its functions transferred to the President by Reorg. Plan No. 1 of 1977, §§ 3, 5G, 42 F.R. 56101, 91 Stat. 1633, 1634, set out preceding section 101 of this title and in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President.

CHAPTER 3—PROTECTION OF THE PRESIDENT; UNITED STATES SECRET SERVICE UNIFORMED DIVISION

Sec.
202. United States Secret Service Uniformed Division; establishment, control, and supervision; privileges, powers, and duties.

AMENDMENTS

1977—Pub. L. 95-179, Nov. 15, 1977, 91 Stat. 1371, substituted "United States Secret Service Uniformed Division" for "Executive Protective Service" in chapter heading and in item 202.

§ 202. United States Secret Service Uniformed Division; establishment, control, and supervision; privileges, powers, and duties

There is hereby created and established a permanent police force, to be known as the "United States Secret Service Uniformed Division". Subject to the supervision of the Secretary of the Treasury, the United States Secret Service Uniformed Division shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: (1) the Executive Mansion and grounds in the District of Columbia; (2) any building in which Presidential offices are located; (3) the President and members of his immediate family; (4) foreign diplomatic missions located in the metropolitan area of the District of Columbia; (5) the temporary official residence of the Vice President and grounds in the District of Columbia; (6) the Vice President and members of his immediately[1] family; (7) foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request of the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection may be extended at places of temporary domicile in connection with such a visit; and (8) foreign diplomatic missions located in such areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct. The members of such force shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

(As amended Nov. 15, 1977, Pub. L. 95-179, 91 Stat. 1371.)

AMENDMENTS

1977—Pub. L. 95-179 substituted "United States Secret Service Uniformed Division" for "Executive Protective Service" in catchline and wherever appearing in text.

REFERENCES TO EXECUTIVE PROTECTIVE SERVICE HELD TO BE REFERENCES TO UNITED STATES SECRET SERVICE UNIFORMED DIVISION

Pub. L. 95-179, Nov. 15, 1977, 91 Stat. 1371, provided in part that: "Any reference in any other law or in any regulation, document, record, or other paper of the United States to the Executive Protective Service shall be held to be a reference to the United States Secret Service Uniformed Division."

§ 203. Personnel, appointment, and vacancies

(a) The United States Secret Service Uniformed Division shall consist of such number of officers, with grades corresponding to similar officers of the Metropolitan Police force, and of such number of privates, with grade corresponding to that of private of the highest grade in the Metropolitan Police force, as may be necessary but not exceeding twelve hundred in number.

(b) Members of the United States Secret Service Uniformed Division shall be recruited under the civil service laws and regulations on a nationwide basis. Members of such Service may also be appointed from the members of the Metropolitan Police force and the United States Park Police force from lists furnished by the officers in charge of such forces. Whenever any vacancy is created in the Metropolitan Police force or the United States Park Police force as the result of an appointment to the United States Secret Service Uniformed Division, such vacancy shall be filled in the manner provided by law. In the period of time which follows the date of enactment of this sentence and precedes January 1, 1975, not more than thirty members of the Metropolitan Police force may be appointed annually to the United States Secret Service Uniformed Division.

(As amended Nov. 15, 1977, Pub. L. 95-179, 91 Stat. 1371.)

REFERENCES IN TEXT

The date of enactment of this sentence, referred to in subsec. (b), is Mar. 19, 1970, the date of enactment of Pub. L. 91-217.

AMENDMENTS

1977—Pub. L. 95-179 substituted "United States Secret Service Uniformed Division" for "Executive Protective Service" wherever appearing in subsecs. (a) and (b).

[1] So in original. Probably should be "immediate".

§ 204. Grades, salaries, and transfers of appointees

(a) No person shall be appointed a member of the United States Secret Service Uniformed Division at a grade lower than the grade held by him as a member of the Metropolitan Police force or of the United States Park Police force at the time of his appointment.

(b) A member of the United States Secret Service Uniformed Division shall receive a salary at the rate provided for the corresponding grade in the Metropolitan Police force (including longevity increases provided by section 401 of the District of Columbia Police and Firemen's Salary Act of 1958), and he shall be furnished with uniforms and other necessary equipment similar to the uniforms and equipment furnished the United States Park Police, and he shall be entitled to the same leave allowances as a member of the United States Park Police force.

(c) Any member of the United States Secret Service Uniformed Division appointed thereto from the Metropolitan Police force or the United States Park Police force may be transferred to the organization of which he was a member at the time of such appointment.

(As amended Nov. 15, 1977, Pub. L. 95-179, 91 Stat. 1371.)

AMENDMENTS

1977—Pub. L. 95-179 substituted "United States Secret Service Uniformed Division" for "Executive Protective Service" wherever appearing in subsecs. (a), (b), and (c).

§ 206. Privileges of civil-service appointees

Members of the United States Secret Service Uniformed Division not appointed from the Metropolitan Police force or the United States Park Police force shall be entitled to the same privileges as to salary, grade, uniforms, equipment, transfer, leave, relief funds, retirement, and refunds as members appointed from the Metropolitan Police force and the United States Park Police force.

(As amended Nov. 15, 1977, Pub. L. 95-179, 91 Stat. 1371.)

AMENDMENTS

1977—Pub. L. 95-179 substituted "United States Secret Service Uniformed Division" for "Executive Protective Service".

§ 207. Participation in police and firemen's relief fund

(a) For the purposes of retirement under section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1917, and for other purposes,[1] approved September 1, 1916, as amended, service with the United States Park Police force shall be deemed service with the United States Secret Service Uniformed Division.

(b) Any member of the Metropolitan Police force appointed to the United States Secret Service Uniformed Division shall continue to be subject to the provisions of section 12 of such Act, and appointment of such member to the United States Secret Service Uniformed Division or transfer of such member to his former organization shall not affect any right, privilege, or duty of such member under the provisions of such section of such Act.

(As amended Nov. 15, 1977, Pub. L. 95-179, 91 Stat. 1371.)

REFERENCES IN TEXT

Section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1917, and for other purposes," approved September 1, 1916, as amended, referred to in text, is act Sept. 1, 1916, ch. 433, § 12, 39 Stat. 718, as amended, which is classified to sections 4-521 to 4-525, 4-526 to 4-533, 4-534 and 4-535 of Title 4, Police and Fire Departments, of the District of Columbia Code. For complete classification of this Act to the District of Columbia Code, see Parallel Reference Tables in the District of Columbia Code.

AMENDMENTS

1977—Pub. L. 95-179 substituted "United States Secret Service Uniformed Division" for "Executive Protective Service" wherever appearing in subsecs. (a) and (b).

CHAPTER 4—DELEGATION OF FUNCTIONS

§ 301. General authorization to delegate functions; publication of delegations

EX. ORD. NO. 11690. DELEGATION OF FUNCTIONS TO EXECUTIVE DIRECTOR OF DOMESTIC COUNCIL

* * * * *

ABOLITION OF DOMESTIC COUNCIL

The Domestic Council, referred to in section 5 of Ex. Ord. No. 11690, Dec. 14, 1972, 31 F.R. 26815, set out under this section in the 1976 edition of this Code, was abolished and the staff thereof redesignated as the Domestic Policy staff to be headed by an Executive Director designated by the President by Reorg. Plan No. 1 of 1977, §§ 1, 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President.

EX. ORD. NO. 12001. TRANSFERRING CERTAIN BICENTENNIAL FUNCTIONS TO SECRETARY OF THE INTERIOR

Ex. Ord. No. 12001, June 29, 1977, 42 F.R. 33709, provided:

By virtue of the authority vested in me by Section 7(b) of the Act of December 11, 1973 (87 Stat. 701) [Pub. L. 93-179], hereinafter referred to as the Act, Section 202(b) of the Budget and Accounting Procedures Act of 1950 (64 Stat. 838, 31 U.S.C. 581c(b)), and Section 301 of Title 3 of the United States Code, and as President of the United States of America it is hereby ordered as follows:

SECTION 1. The Secretary of the Interior, hereinafter referred to as the Secretary, shall, through existing National Park Service programs, provide for the continuation of appropriate commemoration of events relating to the American Revolution until December 31, 1983.

SEC. 2. The Secretary shall administer existing contracts and grants of the American Revolution Bicentennial Administration, hereinafter referred to as ARBA.

[1] So in original. Probably should close quotation mark.

SEC. 3. In performing the functions described in Section 1 and 2 of this Order, the Secretary may, in addition to any other available authority, exercise the following powers under the Act which are hereby transferred to him for such purposes until December 31, 1983, except as otherwise provided in subsection (b) of this Section:

(a) All powers described in Section 2(f) of the Act with respect to the expenditure of funds donated to ARBA prior to the effective date of this Order, and the expenditure of revenues received or which may be received pursuant to contracts described in Section 2 of this Order.

(b) Until December 31, 1977, all powers exercised by ARBA prior to the effective date of this Order which relate to enforcement of Section 2(i) of the Act.

(c) All powers described in Section 5(a) of the Act.

SEC. 4. All personnel, records, property and appropriations, including all funds and revenues described in Section 3(a) of this Order, as relate to the powers and functions assigned or transferred by this Order are hereby transferred to the Secretary.

SEC. 5. The Director of the Office of Management and Budget shall make such determinations and issue such orders as may be necessary or appropriate to carry out the transfers provided by this Order.

SEC. 6. Executive Order No. 11840 of February 18, 1975, is hereby revoked.

SEC. 7. This Order shall be effective June 30, 1977.

JIMMY CARTER.

TITLE 4—FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES

This title was enacted by act July 30, 1947, ch. 389, § 1, 61 Stat. 641

CHAPTER 4—THE STATES

Sec.
113. Residence of Members of Congress for State income tax laws.

AMENDMENTS

1977—Pub. L. 95-67, § 1(b), July 19, 1977, 91 Stat. 271, added item 113.

§ 110. Same; definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 108, 113 of this title.

§ 113. Residence of Members of Congress for State income tax laws

(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may, for purposes of any income tax (as defined in section 110(c) of this title) levied by such State or political subdivision thereof—

(1) treat such Member as a resident or domiciliary of such State or political subdivision thereof; or

(2) treat any compensation paid by the United States to such Member as income for services performed within, or from sources within, such State or political subdivision thereof,

unless such Member represents such State or a district in such State.

(b) For purposes of subsection (a)—

(1) the term "Member of Congress" includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico; and

(2) the term "State" includes the District of Columbia.

(Added Pub. L. 95-67, § 1(a), July 19, 1977, 91 Stat. 271.)

EFFECTIVE DATE

Section 1(c) of Pub. L. 95-67 provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending analysis preceding section 101 of this title] shall be effective with respect to all taxable years, whether beginning before, on, or after the date of the enactment of this Act [July 19, 1977]."

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

This title was enacted by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378

PART I—THE AGENCIES GENERALLY

CHAPTER 1—ORGANIZATION

§ 101. Executive departments

The Executive departments are:
The Department of State.
The Department of the Treasury.
The Department of Defense.
The Department of Justice.
The Department of the Interior.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.
The Department of Health, Education, and Welfare.
The Department of Housing and Urban Development.
The Department of Transportation.
The Department of Energy.

(As amended Pub. L. 95-91, title VII, § 710(a), Aug. 4, 1977, 91 Stat. 609.)

AMENDMENTS

1977—Pub. L. 95-91 included The Department of Energy in the listing of Executive departments.

§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

(1) an establishment in the executive branch (other than the United States Postal Service or the Postal Rate Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and

(2) the General Accounting Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379; Pub. L. 91-375, § 6(c)(2), Aug. 12, 1970, 84 Stat. 775.)

CODIFICATION

Section is set out in this supplement to correct typographical error appearing in the main edition.

§ 105. Executive agency

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1749bbb-10b; title 22 section 2685; title 29 sections 203, 633a; title 41 section 48b; title 42 sections 2000e-16, 4071, 4902, 6964; title 50 section 1601.

CHAPTER 5—ADMINISTRATIVE PROCEDURE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 2 section 437d; title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 section 687e; title 16 section 460aa-3; title 18 section 4218; title 21 section 343; title 25 section 954; title 29 section 982; title 30 section 811; title 33 section 1224; title 39 sections 204, 410, 3001, 3603; title 43 section 1740; title 49 section 1655.

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 556, 559, 572, 8902 of this title; title 2 sections 501, 502; title 7 sections 136d, 1642, 2049; title 12 sections 1749bbb-17, 1959; title 15 sections 78ggg, 266, 1392, 1715; title 16 sections 460aa-3, 470q; title 17 sections 701, 803; title 19 section 1337; title 20 sections 107d-2, 641; title 21 sections 811, 824, 875; title 22 sections 277d-24, 1623; title 25 section 372-1, 954; title 28 section 509; title 29 sections 156, 164, 213, 308f, 481, 628, 792, 1137; title 30 section 184; title 31 sections 1062, 1262; title 33 sections 524, 597; title 39 section 3008; title 41 section 43a; title 42 sections 263f, 2000e-12, 2231, 2236, 3766, 6212, 6393, 7191, 7420; title 43 section 1624; title 46 section 239b; title 47 sections 303, 305, 310, 409; title 49 sections 1348, 1355, 1481, 1655, 1672; title 50 sections 167h, 795, 835; title 50 App. sections 463, 1221, 2159.

§ 551. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 500, 552, 572, 701, 3344 of this title; title 2 sections 501, 502; title 15 sections 78d-1, 78w, 766, 2053; title 26 sections 6103, 9041; title 30 section 956; title 31 section 1701; title 42 sections 2231, 6107, 6393, 7191; title 47 sections 155, 409; title 50 App. sections 2168, 2407.

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

[*See main edition for text of (a) and (b)*]

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

[*See main edition for text of (d) and (e)*]

CODIFICATION

Subsec. (c) is set out in this supplement to correct typographical error appearing in the main edition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 551, 552a, 552b of this title; title 2 sections 472, 501, 502; title 7 section 1642; title 15 sections 18a, 78m, 78w, 78x, 78ggg, 719d, 773, 796, 1314, 1418, 2055, 2217, 2613; title 16 sections

1100b-5, 1402; title 19 section 160; title 21 sections 360d, 360j, 379; title 26 section 6110; title 31 section 1052; title 33 sections 524, 941, 1513; title 39 section 410; title 42 sections 2996d, 3527, 4332, 5916, 6272-6274, 6346, 7135; title 45 section 546; title 46 section 1463; title 49 sections 1357, 1805, 1806, 1905; title 50 App. sections 463, 1221, 2158, 2158a, 2159.

§ 552a. Records maintained on individuals

PRIVACY PROTECTION STUDY COMMISSION

Section 5 of Pub. L. 93-579, as amended by Pub. L. 95-38, June 1, 1977, 91 Stat. 179, provided that:

* * * * *

"(g) The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section. The Commission shall make a final report to the President and to the Congress on its findings pursuant to the study required to be made under subsection (b)(1) of this section not later than two years from the date on which all of the members of the Commission are appointed. The Commission shall cease to exist on September 30, 1977."

* * * * *

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 552b of this title; title 26 section 6103; title 38 section 3301; title 39 section 410; title 42 section 3525; title 44 section 2906.

§ 552b. Open meetings

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 552 of this title; title 39 section 410; title 42 sections 2996c, 7171, 7234.

§ 553. Rule making

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552a, 556 of this title; title 2 sections 501, 502; title 7 sections 2013, 2014; title 15 sections 18a, 57a, 78s, 78ggg, 789, 1193, 1203, 1262, 1410b, 1474, 1476, 1912, 2058, 2079, 2309, 2603, 2604, 2605, 2618; title 16 sections 971d, 1381, 1463, 1533, 1535, 1604, 1821, 1855; title 18 sections 4201, 4218; title 20 sections 1132a-5, 1232; title 21 sections 358, 360d, 463, 1176; title 29 section 982; title 30 sections 811, 936, 1211; title 33 sections 1322, 1504; title 40 section 333; title 41 sections 43a, 47; title 42 sections 300g-1, 300h, 300k-1, 4905, 5403, 5506, 5918, 6306, 6392, 7191, 7607; title 43 section 1740; title 45 sections 431, 502, 562, 715; title 49 sections 13, 15a, 1348, 1387, 1804; title 50 App. sections 2158, 2158a, 2168, 2407.

§ 554. Adjudications

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552b, 556, 557, 8124 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1, 2048; title 15 sections 78d-1, 2064, 2066, 2605, 2615; title 16 sections 1540, 1856, 1858; title 18 section 4218; title 19 section 160; title 21 sections 321, 360e; title 29 sections 216, 659; title 30 sections 185, 804, 811, 815, 817, 818, 821, 938, 1264, 1268, 1275, 1293; title 33 sections 919, 1367, 1504; title 42 sections 2000e-17, 4910, 6971, 7419, 7607; title 43 section 1766; title 45 section 432; title 47 section 409; title 50 App. sections 2168, 2405, 2407.

§ 555. Ancillary matters

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 18 section 4218; title 19 section 160; title 42 section 7607; title 50 App. sections 2168, 2405, 2407.

§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 557, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1; title 15 sections 57a, 2605; title 18 section 4218; title 19 section 160; title 21 sections 321, 376; title 22 section 1037a; title 30 section 811; title 39 sections 404, 3624, 3661; title 42 sections 2241, 7171, 7607; title 47 section 155; title 50 App. sections 2168, 2405, 2407.

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 556, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1; title 15 sections 57a, 2605; title 18 section 4218; title 19 section 160; title 21 section 321; title 30 sections 811, 823; title 39 sections 404, 3624, 3661; title 42 sections 2241, 7607; title 49 section 17; title 50 App. sections 2168, 2405, 2407.

§ 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title; title 42 section 2236; title 45 section 312; title 50 App. sections 2168, 2407.

§ 559. Effect on other laws; effect of subsequent statute

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 30 sections 823, 956; title 50 App. sections 2168, 2407.

CHAPTER 7—JUDICIAL REVIEW

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 559, 8902 of this title; title 2 sections 434, 501, 502; title 7 section 2049; title 12 sections 1464, 1730, 1730a, 1749bbb-17, 1786, 1818, 1959; title 15 sections 57a, 286, 687e, 1193, 1392, 1394, 1715, 1913, 2004, 2008, 2060, 2603, 2618, 2622; title 16 sections 460aa-3, 470q, 1374, 1855; title 17 sections 701, 803, 810; title 18 sections 843, 4218; title 20 sections 107d-2, 641, 1683; title 21 sections 360e, 360g; title 22 sections 277d-24, 1037c, 1623; title 25 sections 372-1, 954; title 26 section 9041; title 29 sections 308f, 721, 792, 1137; title 31 section 1062; title 33 sections 524, 597, 1224; title 35 section 135; title 39 sections 404, 410, 3001, 3008, 3603; title 41 section 43a; title 42 sections 263f, 300j-9, 1395h, 1395oo, 2000d-2, 2231, 2236, 2239, 3886, 4104, 5405, 6105, 6306, 6976, 7525, 7622; title 45 section 431; title 47 sections 303, 305, 310, 409; title 49 sections 1355, 1481, 1655, 1675, 1903; title 50 sections 795, 835; title 50 App. sections 463, 1221, 2159.

§ 701. Application; definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 20 section 1683; title 25 section 954; title 30 section 956; title 42 sections 5405, 6105, 6976; title 50 App. sections 2168, 2406.

§ 702. Right of review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 19 section 160; title 25 section 954; title 42 section 5405; title 50 App. sections 2168, 2406.

§ 703. Form and venue of proceeding

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405; title 50 App. sections 2168, 2406.

§ 704. Actions reviewable

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 25 section 954; title 42 sections 5405, 7174, 7194; title 50 App. sections 2168, 2406.

§ 705. Relief pending review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 15 sections 78y, 1262, 1474; title 16 section 1855; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405, 7172; title 50 App. sections 2168, 2406.

§ 706. Scope of review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 sections 2048, 2149; title 15 sections 57a, 78y, 757, 760a, 1262, 1474, 2618; title 16 sections 1855, 1858; title 18 sections 843, 4218; title 22 section 1037c; title 25 section 954; title 30 section 956; title 39 section 3628; title 42 sections 5405, 6976, 7607; title 45 section 726; title 47 section 402; title 50 App. sections 2168, 2406.

CHAPTER 9—EXECUTIVE REORGANIZATION

Sec.
901. Purpose.
902. Definitions.
903. Reorganization plans.
904. Additional contents of reorganization plan.
905. Limitations on powers.[1]
906. Effective date and publication of reorganization plans.
907. Effect on other laws, pending legal proceedings, and unexpended appropriations.
908. Rules of Senate and House of Representatives on reorganization plans.
909. Terms of resolution.
910. Introduction and reference of resolution.
911. Discharge of committee considering resolution.
912. Procedure after report or discharge of committee; debate; vote on final disapproval.
[913. Omitted.]

AMENDMENTS

1977—Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 29, reenacted chapter heading and items 901 to 903, 905 to 909, and 911 without change, substituted "plan" for "plans" in item 904 and "Introduction and reference of resolution" for "Reference of resolution to committee" in item 910, added "; vote on final disapproval" in item 912, and omitted item 913 "Decisions without debate on motion to postpone or proceed".

[1] So in original. Analysis does not conform to section catchline.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 2000e-6, 2941, 3534, 5741, 7176; title 49 section 1652.

§ 901. Purpose

(a) The Congress declares that it is the policy of the United States—

(1) to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

(c) It is the intent of Congress that the President should provide appropriate means for broad citizen advice and participation in restructuring and reorganizing the executive branch.

(d) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 29.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-17 reenacted subsecs. (a), (b) without change.

Subsec. (c). Pub. L. 95-17 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-17 redesignated former subsec. (c) as (d).

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-17, § 1, Apr. 6, 1977, 91 Stat. 29, provided: "That this Act [which amended this chapter] may be cited as the 'Reorganization Act of 1977'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 902. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency or part thereof; and

(B) an office or officer in the executive branch;

but does not include the General Accounting Office or the Comptroller General of the United States;

(2) "reorganization" means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

(3) "officer" is not limited by section 2104 of this title.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 30.)

AMENDMENTS

1977—Par. (1)(C). Pub. L. 95-17 struck out par. (1)(C) which defined "agency" as any and all parts of the government of the District of Columbia other than the courts thereof.

§ 903. Reorganization plans

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency, except that no enforcement function or statutory program shall be abolished by the plan;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, except that no more than three plans may be pending before the Congress at one time. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. The message shall also estimate any reduction or increase in expenditures (itemized so far as practicable), and describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(c) Any time during the period of thirty calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution described in section 909 has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with sections 903-905 of this title, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter. The President may withdraw the plan any time prior to the conclusion of sixty calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 30.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-17 added provision that no enforcement function or statutory program shall be abolished by the plan.

Subsec. (b). Pub. L. 95-17 substituted provisions limiting to three the number of plans that may be pending before Congress at any one time for provisions limiting to one the number of plans that may be transmitted to Congress within any period of thirty consecutive days and provisions requiring that the President estimate any increase in expenditures and describe any improvements in management, delivery of Federal services, execution of laws, and increases in efficiency of Government operations expected as a result of the reorganizations included in the plan.

Subsec. (c). Pub. L. 95-17 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 902, 904, 909, 910 of this title.

§ 904. Additional contents of reorganization plan

A reorganization plan transmitted by the President under section 903 of this title—

(1) may change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of

other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 31.)

AMENDMENTS

1977—Pub. L. 95-17 struck out in provisions following par. (5) exception that, in the case of an officer of the government of the District of Columbia, the appointment of the head of an agency may be by the Commissioner or other body of that government designated in the plan.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 905. Limitation on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new executive department, abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) increasing the term of an office beyond that provided by law for the office; or

(6) dealing with more than one logically consistent subject matter.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress within three years of the date of enactment of the Reorganization Act of 1977.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 31.)

REFERENCES IN TEXT

The date of enactment of the Reorganization Act of 1977, referred to in subsec. (b), is Apr. 6, 1977, the date of enactment of Pub. L. 95-17, Apr. 6, 1977, 91 Stat. 29.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-17 substituted "an executive department or independent regulatory agency," for "an Executive department" and "or more executive departments or two or more independent regulatory agencies," for "or more Executive departments".

Subsec. (a)(6). Pub. L. 95-17 redesignated former subsec. (a)(7) as (a)(6). Former subsec. (a)(6), which related to the limitation on reorganization plans that have the effect of transferring to or consolidating with another agency the government of the District of Columbia or all the functions thereof which are subject to this chapter, or abolishing that government or all those functions, was struck out.

Subsec. (a)(7). Pub. L. 95-17 redesignated subsec. (a)(7) as (a)(6).

Subsec. (b). Pub. L. 95-17 substituted "within three years of the date of enactment of the Reorganization Act of 1977" for "before April 1, 1973".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 906. Effective date and publication of reorganization plans

(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that the House does not favor the reorganization plan.

(b) For the purpose of this chapter—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective or, if both Houses of Congress have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the sixty-day period required by subsection (a).

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 32.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-17 substituted "sixty" for "60" in two places.

Subsec. (b). Pub. L. 95-17 substituted in provisions preceding par. (1) "this chapter" for "subsection (a) of this section" and in par. (2) "any period of time in which Congress is in continuous session" for "the 60-day period".

Subsec. (c). Pub. L. 95-17 added provision that if both Houses of Congress have defeated a resolution of disapproval, the provision of a reorganization plan may be effective at a time earlier than the expiration of the sixty-day period required by subsec. (a).

Subsec. (d). Pub. L. 95-17 reenacted subsec. (d) without change.

§ 907. Effect on other laws, pending legal proceedings, and unexpended appropriations

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within twelve months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of the chapter may not be used for any purpose, but shall revert to the Treasury.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 32.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-17 reenacted subsecs. (a), (b) without change.

Subsec. (c). Pub. L. 95-17 substituted "twelve months" for "12 months".

Subsec. (d). Pub. L. 95-17 reenacted subsec. (d) without change.

§ 908. Rules of Senate and House of Representatives on reorganization plans

Sections 909 through 912 of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 909 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 33.)

AMENDMENTS

1977—Pub. L. 95-17 substituted in provisions preceding par. (1) "Sections 909 through 912 of this title" for "Sections 909-913 of this title".

§ 909. Terms of resolution

For the purpose of sections 908 through 912 of this title, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the does not favor the reorganization plan numbered transmitted to the Congress by the President on , 19 .", and includes such modifications and revisions as are submitted by the President under section 903(c) of this chapter. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 33.)

REFERENCES IN TEXT

Section 903(c) of this chapter, referred to in text, means section 903(c) of this title.

AMENDMENTS

1977—Pub. L. 95-17 substituted "sections 908 through 912 of this title" for "sections 908-913 of this title" and provision that the blank spaces are to be appropriately filled for provision that the first blank space is to be filled with the name of the resolving House and the other blank spaces are to be appropriately filled and added provision that "resolution" includes such modifications and revisions as are submitted by the President under section 903(c) of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 908, 910 of this title; title 22 section 2587.

§ 910. Introduction and reference of resolution

(a) No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under section 903, a resolution, as defined in section 909, shall be introduced (by request) in the House by the chairman of the Government Operations Committee of the House, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(b) A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 45 calendar days of continuous session of Congress following the date of such resolution's introduction.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 33.)

AMENDMENTS

1977—Pub. L. 95-17 substituted in catchline "Introduction and reference of resolution" for "Reference of resolution to committee", designated existing provisions as subsec. (b), and as so designated, substituted "the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House" for "a committee" and added requirement that the Committee shall make its recommendation to the House or Senate within 45 calendar days of continuous session of Congress following the date of a resolution's introduction, and added subsec. (a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 909, 911 of this title; title 22 section 2587.

§ 911. Discharge of committee considering resolution

If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 910 (or, in the absence of such a resolution, the first resolution introduced with respect to the same reorganization plan) has not reported such resolution or identical resolution at the end of 45 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 34.)

AMENDMENTS

1977—Pub. L. 95-17 substituted provisions deeming the committee discharged from further consideration of a resolution where that committee has not reported the resolution within 45 days of continuous session of Congress after the resolution's introduction for provisions permitting a motion to discharge a committee where the committee considering a resolution has not reported the resolution within 20 calendar days after the resolution's introduction, provisions permitting a motion to discharge to be made only by an individual favoring the resolution and limiting debate to 1 hour, and provisions prohibiting a renewal of a motion to discharge where the original motion was agreed to or disagreed to or the making of another motion with respect to a resolution from the same reorganization plan.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 909, 912 of this title; title 22 section 2587.

§ 912. Procedure after report or discharge of committee; debate; vote on final disapproval

(a) When the committee has reported, or has been deemed to be discharged (under section 911) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(As amended Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 34.)

AMENDMENTS

1977—Catchline. Pub. L. 95-17 inserted "; vote on final disapproval" following "debate".

Subsec. (a). Pub. L. 95-17 added provisions that a motion to discharge a committee is not subject to a motion to postpone or to a motion to proceed to the consideration of other business and that if a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

Subsec. (b). Pub. L. 95-17 added provisions that a motion to postpone or a motion to proceed to the consideration of other business is not in order.

Subsec. (c). Pub. L. 95-17 added subsec. (c).

Subsec. (d). Pub. L. 95-17 added subsec.(d) which provisions were formerly set out in section 913(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 909 of this title; title 22 section 2587; title 42 section 2941.

[§ 913. Omitted]

CODIFICATION

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 398, providing for decision without debate with respect to motions to postpone, motions to proceed to the consideration of other business, and appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, was omitted in the general amendment of this chapter by Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 29.

PART II—THE UNITED STATES CIVIL SERVICE COMMISSION

CHAPTER 13—SPECIAL AUTHORITY

§ 1302. Regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104, 1303 of this title; title 18 section 1917; title 22 section 1438; title 38 sections 106, 4202.

CHAPTER 15—POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504, 1505, 1506 of this title; title 42 sections 2930e, 2943.

PART III—EMPLOYEES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 42 section 3056b; title 45 section 719.

Subpart A—General Provisions

CHAPTER 21—DEFINITIONS

§ 2107. Congressional employee

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8331, 8701, 8901 of this title; title 2 section 31b-5; title 26 section 7448; title 31 section 43b.

§ 2108. Veteran; disabled veteran; preference eligible

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3305, 3309, 3318 of this title; title 22 sections 1234, 1438; title 32 section 709; title 38 sections 106, 4202; title 39 section 1005.

Subpart B—Employment and Retention

CHAPTER 31—AUTHORITY FOR EMPLOYMENT

§ 3104. Employment of specially qualified scientific and professional personnel

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3325, 5361 of this title; title 49 section 1655.

§ 3105. Appointment of hearing examiners

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 554, 556, 559, 1305, 3344, 4301, 5108, 5335, 5362, 7521 of this title; title 15 sections 327, 1715; title 29 sections 661, 792; title 30 sections 804, 823, 932a; title 33 sections 873, 919; title 42 sections 2000e-4, 3608; title 47 section 410.

§ 3106. Employment of attorneys; restrictions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 810.

§ 3109. Employment of experts and consultants; temporary or intermittent

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 575, 5102, 5306, 7342 of this title; title 7 section 16; title 12 section 2405; title 15 sections 205i, 634d, 636, 1942, 2206, 2218, 2451; title 16 sections 469b, 470m, 1052, 1406; title 17 section 805; title 18 sections 3153, 3168, 4204, 4352; title 19 sections 1331, 2171; title 20 sections 959, 1221e, 1233d, 1505, 2012, 2106; title 21 section 1116; title 22 sections 272a, 277d-3, 280b, 280i, 280k, 290b, 290f, 2024, 2083, 2102, 2103, 2386, 2512, 2581, 2847, 2873, 2905, 3106; title 23 section 303; title 25 section 640d-11; title 28 section 625; title 29 sections 656, 671, 676, 1302; title 31 sections 52c, 1154; title 40 sections 71a, 822, 873; title 42 sections 242*l*, 286d, 287b, 300k-3, 1962a-4, 1975d, 2000g, 2473, 2942, 3035a, 3211, 3525, 3765, 4343, 5042, 5149, 5612, 5816, 6616, 7171, 7211, 7233; title 43 section 1616; title 44 section 3319; title 49 sections 20, 26b, 1343, 1638, 1657, 1903; title 50 App. sections 2158, 2158a, 2169.

CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 sections 7138, 7231.

§ 3301. Civil service; generally

EX. ORD. NO. 10577. CIVIL SERVICE RULES

Ex. Ord. No. 10577, Nov. 22, 1954, 19 F.R. 7521, eff. Jan. 23, 1955, as amended by Ex. Ord. No. 10641, Oct. 26, 1955, 20 F.R. 8137; Ex. Ord. No. 10675, Aug. 21, 1956, 21 F.R. 6327 eff. Jan. 23, 1956; Ex. Ord. No. 10745, Dec. 12, 1957, 22 F.R. 10025; Ex. Ord. No. 10869, Mar. 9, 1960, 25 F.R. 2073; Ex. Ord. No. 11315. Nov. 17, 1966, 31 F.R. 14729; Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351; Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259; Ex. Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411; Ex. Ord. No. 11935; Sept. 2, 1976, 41 F.R. 37301; Ex. Ord. No. 12021, Nov. 30, 1977, 42 F.R. 61237, provided:

PART I—CIVIL SERVICE RULES

SECTION 101. The Civil Service Rules are hereby amended to read as follows:

* * * * *

RULE VI—EXCEPTIONS FROM THE COMPETITIVE SERVICE

* * * * *

§ 6.8. SPECIFIED EXCEPTIONS

(a) Positions in the Department of the Interior and in the Department of Commerce whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS-15 of the General Schedule, and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section.

(b) Positions in the Community Services Administration and ACTION whose incumbents serve as regional director or regional administrator shall be listed in Schedule C for grades not exceeding GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on November 29, 1977, in the competitive service shall not be affected by the foregoing provisions of this subsection.

* * * * *

RULE IX—EXECUTIVE, ASSIGNMENT SYSTEM FOR POSITIONS IN GRADES GS-16, 17, AND 18 OF THE GENERAL SCHEDULE

* * * * *

CAREER EXECUTIVE ASSIGNMENTS

* * * * *

SEC. 9.11. SPECIFIED NONCAREER EXECUTIVE ASSIGNMENTS. (a) The regional director, regional administrator, or the Secretary's principal regional representative positions in the Department of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency and the Small Business Administration shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section.

(b) The regional director or regional administrator positions in the Defense Civil Preparedness Agency and the General Services Administration shall be designated as Noncareer Executive Assignments and the Limited Executive Assignments of any incumbents of these positions on November 29, 1977, are converted to Noncareer Executive Assignments. Incumbents of these positions who are, on November 29, 1977, serving in Career Executive Assignments shall not be affected by the foregoing provisions of this subsection.

* * * * *

EXECUTIVE ORDER NO. 11813

Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, set out as a note under this section in the 1976 edition to this Code, which related to career or career-conditional appointments for cooperative education students, was revoked by Ex. Ord. No. 12015, Oct. 26, 1977, 42 F.R. 56947, set out as a note below.

EX. ORD. NO. 12008. PRESIDENTIAL MANAGEMENT INTERN PROGRAM

Ex. Ord. No. 12008, Aug. 25, 1977, 42 F.R. 43373, provided:

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code, Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. There is hereby established the Presidential Management Intern Program, hereafter referred to as the Program, the purpose of which is to attract to Federal service men and women of exceptional management potential who have received special training in planning and managing public programs and policies.

SEC. 2. Outstanding individuals who have pursued a course of study oriented toward public management at a graduate-level educational institution and who, at the time of application, have recently received or will shortly receive an appropriate advanced degree, are eligible to apply for participation in the Program.

SEC. 3. The United States Civil Service Commission, hereafter referred to as the Commission, shall develop appropriate procedures for the recruitment, screening, and selection of applicants possessing the qualifications described in Section 2 of this order. In developing these procedures, the Commission shall be guided by the following principles and policies:

(a) The number of interns participating in the Program shall at no time exceed five hundred.

(b) Final selection of interns shall be made by the head of the department, agency, or component within the Executive Office of the President in which the intern is to be employed, or by the designee thereof.

(c) The procedures so developed shall provide for such affirmative actions as the Commission deems appropriate to assure equal employment opportunity.

(d) To the extent permitted by law, the Commission is authorized to enter into appropriate cooperative arrangements with State and local officials and appropriate private institutions for recruitment and screening of candidates for the Program.

SEC. 4. Upon selection, candidates shall be appointed as interns to positions in Schedule A of the excepted service for a period not to exceed two years. Their tenure shall be governed by the following principles and policies:

(a) Interns shall be assigned responsibilities consistent with their public management backgrounds and the purposes of this Program.

(b) Continuation in the Program shall be contingent upon satisfactory performance by the interns throughout the internship period.

(c) Except as provided in subsection (d) of this Section, service as interns shall confer no rights to further Federal employment in either the competitive or excepted service upon expiration of the two-year internship period.

(d) Interns may be granted competitive civil service status if they satisfactorily complete their two-year internships and meet all other requirements prescribed by the Commission.

SEC. 5. The Commission shall prescribe such regulations as may be necessary to carry out the purposes of this order.

JIMMY CARTER.

EX. ORD. NO. 12015. CAREER OR CAREER-CONDITIONAL APPOINTMENTS IN COMPETITIVE SERVICE FOR STUDENTS COMPLETING APPROVED CAREER-RELATED WORK-STUDY PROGRAMS

Ex. Ord. No. 12015, Oct. 26, 1977, 42 F.R. 56947, provided:

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. As used in this order "career-related work-study programs" are those programs established by the United States Civil Service Commission which provide for a formally-arranged schedule of periods of attendance at an accredited school combined with periods of career-related work in a Federal agency under a Schedule B appointment.

SEC. 2. The appointment of a student to a position in a career-related work-study program may be converted noncompetitively to a career or career-conditional appointment if the student:

(a) has completed within the preceding 120 days an educational program that meets the provisions established by the Civil Service Commission;

(b) has satisfied all course requirements leading to completion of the related curriculum at an accredited school;

(c) is recommended for such an appointment by the employing agency in which the career-related work was performed; and,

(d) satisfies such other requirements and conditions as the Civil Service Commission may prescribe for career or career-conditional appointment of an individual in career-related work-study programs.

SEC. 3. The Civil Service Commission shall prescribe such regulations as it deems necessary to carry out the provisions of this order and to provide for the continuation of planning, implementation and evaluation of employment programs for students throughout the Government. These regulations shall provide for the periodic evaluation of the work of each student and require that each student's continuation in the program shall be dependent upon a finding of satisfactory performance.

SEC. 4. Executive Order No. 11813 of October 7, 1974, is hereby revoked.

JIMMY CARTER.

EX. ORD. NO. 12021. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS FROM THE CAREER SERVICE

Ex. Ord. No. 12021, Nov. 30, 1977, 42 F.R. 61237, provided:

By virtue of the authority vested in me by the Constitution of the United States of America, and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. That portion of Section 6.8 of Civil Service Rule VI following the heading "Specified Exceptions." (5 C.F.R. 6.8) is designated subsection (a) and a new subsection (b) is added as follows:

"(b) Positions in the Community Services Administration and ACTION whose incumbents serve as regional director or regional administrator shall be listed in Schedule C for grades not exceeding GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on November 29, 1977, in the competitive service shall not be affected by the foregoing provisions of this subsection.".

SEC. 2. That portion of Section 9.11 of Civil Service Rule IX following the heading "Career Executive Assignments; selection and assignment." (5 C.F.R. 9.11) is designated subsection (a) and a new subsection (b) is added as follows:

"(b) The regional director or regional administrator positions in the Defense Civil Preparedness Agency and the General Services Administration shall be designated as Noncareer Executive Assignments and the Limited Executive Assignments of any incumbents of these positions on November 29, 1977, are converted to Noncareer Executive Assignments. Incumbents of these positions who are, on November 29, 1977, serving in Career Executive Assignments shall not be affected by the foregoing provisions of this subsection.".

JIMMY CARTER.

EXECUTIVE ORDER NO. 12026

For provisions relating to eligibility for reinstatement in the competitive civil service of certain employees of the Energy Department, see Ex. Ord. No. 12026, Dec. 5, 1977, 42 F.R. 61849, set out as a note under section 7292 of Title 42, The Public Health and Welfare.

§ 3305. Competitive service; examinations; when held

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438; title 38 sections 106, 4202; title 40 section 42.

§ 3306. Competitive service; departmental service; apportionment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3308. Competitive service; examinations; educational requirements prohibited; exceptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3309. Preference eligibles; examinations; additional points for

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3313, 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3311. Preference eligibles; examinations; crediting experience

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3312. Preference eligibles; physical qualifications; waiver

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3313. Competitive service; registers of eligibles

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3314, 3315, 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3314. Registers; preference eligibles who resigned

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3315. Registers; preference eligibles furloughed or separated

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3316. Preference eligibles; reinstatement

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3317. Competitive service; certification from registers

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3110, 3318, 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3318. Competitive service; selection from certificates

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

§ 3319. Competitive service; selection; members of family restriction

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438; title 38 sections 106, 4202.

§ 3320. Excepted service; government of the District of Columbia; selection

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 1234, 1438; title 38 sections 106, 4202.

§ 3324. Appointments at GS-16, 17, and 18

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7154 of this title; title 10 sections 4540, 7212, 9540; title 42 section 7231.

SUBCHAPTER II—OATH OF OFFICE

§ 3331. Oath of office

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2903, 2904, 2905, 2906, 3332, 5792 of this title; title 2 section 64-1; title 10 sections 591, 5792; title 14 sections 273, 797; title 22 section 2504; title 33 section 854a-2; title 42 section 1971; title 50 App. section 1597.

§ 3332. Officer affidavit; no consideration paid for appointment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5507 of this title; title 42 section 211.

SUBCHAPTER III—DETAILS

§ 3344. Details; hearing examiners

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 30 section 823; title 42 sections 2000e-4, 3608, 3755.

SUBCHAPTER IV—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438; title 38 sections 106, 4202.

SUBCHAPTER V—PROMOTION

§ 3363. Preference eligibles; promotion; physical qualifications; waiver

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438; title 38 sections 106, 4202.

CHAPTER 35—RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT

SUBCHAPTER I—RETENTION PREFERENCE

§ 3501. Definitions; application

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3502, 6303 of this title; title 10 section 1586; title 22 section 1438; title 38 sections 106, 4202.

§ 3502. Order of retention

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1586; title 22 section 1438; title 32 section 709; title 38 sections 106, 4202.

§ 3503. Transfer of functions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1586; title 22 section 1438; title 38 sections 106, 4202.

§ 3504. Preference eligibles; retention; physical qualifications; waiver

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3501 of this title; title 22 section 1438; title 38 sections 106, 4202.

Subpart C—Employee Performance

CHAPTER 45—INCENTIVE AWARDS

§ 4504. Presidential awards

EX. ORD. NO. 10717. PRESIDENT'S AWARD FOR DISTINGUISHED FEDERAL CIVILIAN SERVICE

Ex. Ord. No. 10717, June 27, 1957, 22 F.R. 4632, as amended by Ex. Ord. No. 10979, Dec. 12, 1961, 26 F.R. 11937; Ex. Ord. No. 11085, Feb. 22, 1963, 28 F.R. 1759; Ex. Ord. No. 12014, Oct. 19, 1977, 42 F.R. 56105, provided:

SECTION 1. There is hereby established an honorary award for the recognition of distinguished service by civilian officers and employees of the Federal Government. The award shall be known as the President's Award for Distinguished Federal Civilian Service, and shall consist of a gold medal, the design of which accompanies and is hereby made a part of this order, suspended on a ribbon of appropriate material and color, and accompanying appurtenances. Each medal shall be suitably inscribed, and an appropriate citation shall accompany each award.

SEC. 2. (a) The President's Award for Distinguished Federal Civilian Service shall be presented by the President to civilian officers or employees of the Federal Government for the best achievements having current impact in improving Government operations or serving the public interest. These achievements shall exemplify one or more of the following:

(1) Imagination in developing creative solutions to problems of government.

(2) Courage in persevering against great odds and difficulties.

(3) High ability in accomplishing extraordinary scientific or technological achievement, in providing outstanding leadership in planning, organizing, or directing a major program of unusual importance and complexity, or in performing an extraordinary act of credit to the Government and the country.

(4) Long and distinguished career service.

(b) The importance of the achievements to the Government and to the public interest shall be so outstanding that the officer or employee is deserving of greater public recognition than that which can be accorded by the head of the department or agency in which he is employed. Generally, not more than five awards shall be made in any one year. Presentation of the award shall be made at such times as the President may determine.

SEC. 3. The Chairman of the United States Civil Service Commission shall advise and assist the President in selecting persons to receive this award. In performing this function, the Chairman shall carefully review nominations submitted pursuant to the provisions of Section 4 of this Order and decide which of them, if any, warrant presentation to the President. The Chairman shall thereupon transmit to the President the names of those persons who, in the opinion of the Chairman, merit the award, together with a statement of the reasons therefor. Recipients for the award shall be selected by the President.

SEC. 4. The form and procedures for making nominations for this award shall be prescribed by the Chairman of the United States Civil Service Commission, in accord with the following principles:

(a) The Chairman shall be guided in the performance of this function by the provisions of Section 4504 and 4505 of Title 5 of the United States Code, and by additional criteria which the Chairman may prescribe.

(b) The Chairman shall not recommend any person for the award without the concurrence of the head of the agency in which that person was employed at the time of the achievement for which the award is recommended.

(c) Persons appointed by the President are not eligible for this award unless, in the opinion of the Commission, they are currently serving in a career position.

DWIGHT D. EISENHOWER.

Subpart D—Pay and Allowances

CHAPTER 51—CLASSIFICATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3101, 3102, 3109, 3374, 4301, 5304, 5331, 5334, 5337, 5341, 5342, 5348, 5362, 5541, 5544, 5545, 7154 of this title; title 2 sections 60e-2, 60e-2a, 60e-2b, 60e-6, 162a, 166, 197, 293, 353, 356; title 4 section 142; title 7 sections 511m, 610, 1507, 1642, 1981; title 8 section 1103; title 10 sections 4540, 7212, 9540; title 12 sections 1701c, 2405; title 13 section 23; title 15 sections 78d, 78s, 79z-5, 80a-45, 80b-18, 205l, 278a, 327, 634d, 714g, 714h, 715h, 717q, 1023, 1942, 2053, 2451; title 16 sections 81c, 450jj-1, 460m, 470m, 590d, 793, 825i, 832i, 833h, 916*l*; title 18 section 4001; title 20 sections 74, 75f, 76dd, 80g, 241, 1089, 1102, 1145, 1221d, 1221e, 1417, 2106; title 21 section 1115; title 22 sections 272a, 277d-3, 277d-19, 280b, 280i, 280k, 287e, 287r, 289b, 290b, 886, 928, 1044, 2024, 2083, 2454, 2581, 2873; 3008; title 25 sections 2a, 305a, 633, 640, 640d-11; title 26 sections 7471, 9010, 9040; title 28 sections 603, 625, 626; title 29 sections 172, 661, 676; title 30 sections 556, 664, 823; title 33 sections 569a, 939, 940, 984, 1325, 1374; title 35 sections 3, 7; title 38 sections 2003, 2014, 4107; title 40 sections 13b, 166b-1f, 166b-3, 174j-8, 609, 873; title 41 sections 38, 46, 104; title 42 sections 204, 217a, 246, 907a, 1320a-4, 1563, 1731, 1855f, 1863, 1873, 1962a-4, 2000e-4, 2000g, 2201, 2473, 2942, 3525, 4276, 4365, 4372, 5042, 5149, 7231; title 43 sections 316n, 1399, 1616, 1731; title 44 section 2503; title 45 sections 154, 362; title 46 sections 1111, 1126; title 47 section 154; title 49 sections 231, 1322, 1343, 1441; title 50 sections 402, 404; title 50 App. sections 460, 2001, 2153, 2162, 2168, 2169, 2253.

§ 5102. Definitions; application

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5101, 5103, 5331, 5341, 5342, 5348, 5349 of this title; title 10 sections 4540, 7212, 9540; title 20 section 903; title 29 section 218; title 31 section 665a.

§ 5108. Classification of positions at GS-16, 17, and 18

(a) A majority of the Civil Service Commissioners may establish, and from time to time revise, the maximum number of positions (not to exceed an aggregate of 3,301, in addition to any professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine which may be placed in these grades, and in addition to 240 hearing examiner positions under section 3105 of this title which may be placed in GS-16 and 9 such positions which may be placed in GS-17) which may be placed in GS-16, 17, and 18 at any one time. However, under this authority, not to exceed 25 percent of the aggregate number may be placed in GS-17 and not to exceed 12 percent of the aggregate number may be placed in GS-18. A position may be placed in GS-16, 17, or 18 only by action of, or after prior approval, by a majority of the Civil Service Commissioners.

[*See main edition for text of* (b) *to* (g)]

(As amended Pub. L. 95-91, title VII, § 710(b), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-190, § 11(a), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 95-219, § 3(c), Dec. 28, 1977, 91 Stat. 1614.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-219 substituted "3301" for "3293".

Pub. L. 95-190 substituted "3293" for "3243".

Pub. L. 95-91 substituted "3243" for "2754".

ADDITIONAL POSITIONS IN OFFICE OF MANAGEMENT AND BUDGET

Pub. L. 95-26, title I, May 4, 1977, 91 Stat. 94, provided: "That the Director [of the Office of Management and Budget] may place a total of five (5) positions, in GS-16, 17, and 18 and that such positions are in addition to total number of positions authorized to be placed in such grades by section 5108 of title 5".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3324, 5109, 5114 of this title; title 2 section 166; title 10 sections 4540, 7212, 9540; title 15 section 2053; title 20 sections 1221e, 1221f; title 21 section 1115; title 22 sections 2193, 2385, 2454; title 29 sections 661, 1137; title 30 section 1211; title 42 sections 3774, 7231; title 45 section 231f.

CHAPTER 53—PAY RATES AND SYSTEMS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 770; title 18 section 3153; title 42 sections 5872, 7292.

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 7211.

§ 5304. Presidential policies and regulations

EX. ORD. NO. 11721. FEDERAL PAY ADMINISTRATION

Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, as amended by Ex. Ord. No. 12004, July 20, 1977, 42 F.R. 37527, provided:

By virtue of the authority vested in me by sections 5303, 5304, and 5305 of title 5, United States Code, and as President of the United States, it is hereby ordered as follows:

* * * * *

PART II—ANNUAL PAY REVIEW

Section 201. The Secretary of Labor, the Director of the Office of Management and Budget, and the Chairman of the United States Civil Service Commission are hereby designated to serve jointly as the President's agent under section 5305 of title 5, United States Code, and shall be known in this capacity as the President's Pay Agent.

* * * * *

Sec. 204. (a) The Advisory Committee on Federal Pay shall advise the President of its own opinion on any unresolved issues referred to it by the President's Pay Agent or the Federal Employees Pay Council. The Advisory Committee shall inform the President's Pay Agent and the Federal Employees Pay Council of its opinion on such issues as soon as practicable. To facilitate the exercise of this authority and the early resolution of such issues, the Advisory Committee shall attend, or be represented at, meetings between the President's Pay Agent and the Federal Employees Pay Council, and moderate and direct the discussion.

(b) The President's Pay Agent, in its annual report to the President pursuant to section 5305 of title 5, United States Code, shall include a full discussion of each issue upon which the Advisory Committee has submitted, in accordance with subsection (a), an opinion.

* * * * *

§ 5305. Annual pay reports and adjustments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5307, 5318 of this title; title 2 sections 31, 60a-1, 60a-2, 84a-1; title 3 section 104; title 28 section 461.

§ 5306. Advisory Committee on Federal Pay

REFERENCES IN TEXT

Section 5703 of this title, referred to in subsec. (g), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5364 of this title; title 22 sections 866, 867; title 31 section 42a; title 40 App. section 101; title 42 sections 3535, 4276; title 44 section 303.

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

[*See main edition for text of (1) to (13)*]

(14) Secretary of Energy.

(As amended Pub. L. 95-91, title VII, § 710(c), Aug. 4, 1977, 91 Stat. 609.)

AMENDMENTS

1977—Par. (14). Pub. L. 95-91 added par. (14).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723a; title 39 section 1003; title 42 sections 7211, 7291; title 45 sections 543, 712.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Deputy Secretary of Defense.

[*See main edition for text of (2) to (21)*]

(22) Deputy Secretary of Energy.

[*See main edition for text of (23)*]

(As amended Pub. L. 95-91, title VII, § 710(d), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-140, § 3(d)(1), Oct. 21, 1977, 91 Stat. 1173.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-140 substituted "Deputy Secretary of Defense" for "Deputy Secretaries of Defense (2)".

Par. (22). Pub. L. 95-91 substituted "Deputy Secretary of Energy" for "Administrator of Energy Research and Development Administration".

DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE

The Director of the Federal Bureau of Investigation, Department of Justice to receive compensation at the

rate prescribed for level II of the Federal Executive Salary Schedule [this section], effective as of the day following the date on which the person holding such office on June 19, 1968 ceases to serve as Director, see section 1101 of Pub. L. 90-351, June 19, 1968, 82 Stat. 236, set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8704 of this title; title 22 sections 866, 2847; title 23 section 303; title 42 sections 210, 1864, 4346, 6612, 7132, 7211, 7291, 7293.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

[*See main edition for text of (1) to (20)*]

(21) Chairman, Federal Energy Regulatory Commission.

[*See main edition for text of (22) to (31)*]

(32) Under Secretaries of Defense (2).

[*See main edition for text of (33) to (59)*]

(60) Under Secretary, Department of Energy.

[*See main edition for text of (61) to (65)*]

(66) Associate Attorney General.

(66) Chairman, Federal Mine Safety and Health Review Commission.

(As amended Pub. L. 95-91, title VII, § 710(e), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-139, § 3, Oct. 19, 1977, 91 Stat. 1171; Pub. L. 95-140, § 3(d)(2), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 95-164, title III, § 302(c)(1), Nov. 9, 1977, 91 Stat. 1320.)

AMENDMENTS

1977—Par. (21). Pub. L. 95-91 substituted "Federal Energy Regulatory Commission" for "Federal Power Commission".

Par. (32). Pub. L. 95-140 substituted "Under Secretaries of Defense (2)" for "Director of Defense Research and Engineering, Department of Defense".

Par. (60). Pub. L. 95-91 substituted "Under Secretary, Department of Energy" for "Deputy Administrator, Energy Research and Development Administration".

Par. (66). Pub. L. 95-164 added par. (66), relating to Chairman, Federal Mine Safety and Health Review Commission.

Pub. L. 95-139 added par. (66), relating to Associate Attorney General.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of Title 30, Mineral Lands and Mining.

DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE

The Director of the Federal Bureau of Investigation, Department of Justice to receive compensation at the rate prescribed for level II of the Federal Executive Salary Schedule [section 5313 of this title], effective as of the day following the date on which the person holding such office on June 19, 1968 ceases to serve as Director, see section 1101 of Pub. L. 90-351, set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 60a-1, 282b, 474, 601; title 15 section 205l; title 22 section 866; title 38 section 4107; title 42 sections 1864a, 5041, 5871, 5872, 6612, 7132, 7134, 7211, 7291, 7293; title 50 App. section 2169.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

[(1) Repealed. Pub. L. 95-105, title I, § 109(d)(1), Aug. 17, 1977, 91 Stat. 847.]

[*See main edition for text of (2) to (11)*]

(12) Assistant Secretaries of Commerce (8).

[*See main edition for text of (13) to (21)*]

(22) Assistant Secretaries of State (13).

[*See main edition for text of (23) to (49)*]

(50) Special Representative for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency.

[*See main edition for text of (51)*]

[(52), (53) Repealed. Pub. L. 95-88, title I, § 124(b), Aug. 3, 1977, 91 Stat. 542.]

[*See main edition for text of (54) to (59)*]

(60) Members, Federal Energy Regulatory Commission.

[*See main edition for text of (61) to (101)*]

[(102) Repealed. Pub. L. 95-91, title VII, § 710(f), Aug. 4, 1977, 91 Stat. 609.]

[*See main edition for text of (103) to (113)*]

(114) Assistant Secretaries of Energy (8).

(115) General Counsel of the Department of Energy.

(116) Administrator, Economic Regulatory Administration, Department of Energy.

(117) Administrator, Energy Information Administration, Department of Energy.

(118) Inspector General, Department of Energy.

(119) Director, Office of Energy Research, Department of Energy.

(120) Assistant Secretary of Labor for Mine Safety and Health.

(121) Members, Federal Mine Safety and Health Review Commission.

(As amended Pub. L. 95-88, title I, § 124(b), Aug. 3, 1977, 91 Stat. 542; Pub. L. 95-91, title VII, § 710(f), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-105, title I, § 109(d), Aug. 17, 1977, 91 Stat. 847;

Pub. L. 95-108, § 2(b), Aug. 17, 1977, 91 Stat. 871; Pub. L. 95-164, title III, § 302(b), Nov. 9, 1977, 91 Stat. 1319; Pub. L. 95-173, § 9(b), Nov. 12, 1977, 91 Stat. 1360.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-105, § 109(d)(1), struck out par. (1) "Administrator, Bureau of Security and Consular Affairs, Department of State".

Par. (12). Pub. L. 95-173 increased from six to eight the number of authorized Assistant Secretaries of Commerce.

Par. (22). Pub. L. 95-105, § 109(d)(2), substituted "(13)" for "(11)".

Par. (50). Pub. L. 95-108 added par. (50). A prior par. (50), relating to the General Manager of the Atomic Energy Commission, was repealed by Pub. L. 93-438, title III, § 310(3), Oct. 11, 1974, 88 Stat. 1253.

Pars. (52), (53). Pub. L. 95-88 struck out par. (52) "Inspector General, Foreign Assistance" and par. (53) "Deputy Inspector General, Foreign Assistance".

Par. (60). Pub. L. 95-91 substituted "Federal Energy Regulatory Commission" for "Federal Power Commission".

Par. (102). Pub. L. 95-91 struck out par. (102) "Assistant Administrators, Energy Research and Development Administration (6)".

Pars. (114) to (119). Pub. L. 95-91 added pars. (114) to (119).

Pars. (120), (121). Pub. L. 95-164 added pars. (120) and (121).

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of Title 30, Mineral Lands and Mining.

Repeal of pars. (52) and (53) by Pub. L. 95-88 effective July 1, 1978, see section 124(c) of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 2384 of Title 22, Foreign Relations and Intercourse.

ABOLITION OF ONE OFFICE OF ASSISTANT SECRETARY OF STATE

One of the offices of Assistant Secretary of State provided for in par. (22) of this section was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(2), 42 F.R. 62461, 91 Stat. 1639, set out in the Appendix to this title, effective on or before July 1, 1978, at such time as specified by the President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5317 of this title; title 2 sections 285e, 286e, 437c, 474, 601; title 15 sections 790b, 2204; title 20 section 1221b; title 22 sections 290f, 866, 867; title 23 section 303; title 28 section 548; title 30 sections 1121, 1211; title 31 section 52b; title 38 section 4107; title 42 sections 1975b, 3525, 4346, 4532, 5041, 5553, 5871, 5872, 7002, 7132, 7133, 7134, 7135, 7136, 7138, 7139, 7211, 7291, 7293; title 44 section 303; title 50 App. section 2168.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

[*See main edition for text of (1) to (10)*]

(11) Associate Administrators of the Small Business Administration (4).

[*See main edition for text of (12) to (134)*]

(135) Executive Director, Advisory Council on Historic Preservation.

(135) Deputy Inspector General, Department of Energy.

(136) Additional Officers, Department of Energy (14).

[*See main edition for text of (137) to (139)*]

(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(141) Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.

(141) Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

(142) Assistant Administrators (3), National Oceanic and Atmospheric Administration.

(143) General Counsel, National Oceanic and Atmospheric Administration.

(As amended Pub. L. 95-89, title II, § 209, Aug. 4, 1977, 91 Stat. 558; Pub. L. 95-91, title VII, § 710(g), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-115, § 3(a)(6), Oct. 3, 1977, 91 Stat. 1049; Pub. L. 95-219, § 3(b), Dec. 28, 1977, 91 Stat. 1614.)

AMENDMENTS

1977—Par. (11). Pub. L. 95-89 increased from 3 to 4 the number of Associate Administrators of the Small Business Administration.

Par. (135). Pub. L. 95-91 substituted "Deputy Inspector General, Department of Energy" for "General Counsel, Energy Research and Development Administration", now covered in section 5315 par. (115) General Counsel of the Department of Energy.

Par. (136). Pub. L. 95-91 substituted "Department of Energy (14)" for "Energy Research and Development Administration (8)".

Par. (140). Pub. L. 95-219 substituted "Assistant" for "Associate".

Par. (141). Pub. L. 95-219 added par. (141), relating to Assistant Administrator for Fisheries.

Pub. L. 95-115 added par. (141), relating to Associate Administrator Office of Juvenile Justice and Delinquency Prevention.

Pars. (142), (143). Pub. L. 95-219 added pars. (142), (143).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective on Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date note under section 5601 of Title 42, The Public Health and Welfare.

SUBVERSIVE ACTIVITIES CONTROL BOARD

The Subversive Activities Control Board, the Chairman and Members of which were compensated under this section according to pars. (34) and (92), respectively, ceased operation on June 3, 1973, as unfunded by Congress.

ABOLITION OF UNITED STATES INFORMATION AGENCY

The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans), referred to in par. (67) of this section, Associate Director (Policy and Plans), referred to in par. (103) of this section, and additional offices created by Reorg. Plan No. 8 of 1953, § 1(d), eff. Aug. 1, 1953, 18 F.R. 4542, 67 Stat. 642, set out in the Appendix to this title, was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set

out in the Appendix to this title, effective on or before July 1, 1978, at such times as specified by the President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5317 of this title; title 2 sections 60a-2, 74a-3, 84a-1, 166, 282b, 353, 437c; title 12 section 1723a; title 15 sections 2204; title 20 sections 964, 1221e; title 22 sections 866, 2872; title 23 section 303; title 26 section 6103; title 28 sections 332, 548, 603, 625; title 31 section 1154; title 38 section 4107; title 39 section 206; title 42 sections 907a, 1864a, 2996d, 3525, 5041, 5871, 5872, 7138, 7211, 7232, 7291, 7293; title 43 section 1616; title 44 sections 303, 3319; title 50 App. section 2168.

§ 5317. Presidential authority to place positions at levels IV and V

EX. ORD. NO. 11861. PLACEMENT OF POSITIONS IN LEVELS IV AND V

Ex. Ord. 11861, May 21, 1975, 40 F.R. 22531, as amended by Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579; Ex. Ord. No. 11872, July 21, 1975, 40 F.R. 30619; Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797; Ex. Ord. No. 11885, Oct. 15, 1975, 40 F.R. 48491; Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040; Ex. Ord. No. 11898, Jan. 14, 1976, 41 F.R. 2365; Ex. Ord. No. 11908, Mar. 18, 1976, 41 F.R. 11805; Ex. Ord. No. 11927, July 22, 1976, 41 F.R. 30583; Ex. Ord. No. 11976, Mar. 11, 1977, 42 F.R. 14081; Ex. Ord. No. 11983, May 4, 1977, 42 F.R. 23127; Ex. Ord. No. 11986, May 20, 1977, 42 F.R. 26407; Ex. Ord. No. 11995, June 8, 1977, 42 F.R. 29841; Ex. Ord. No. 11999, June 27, 1977, 42 F.R. 33255; Ex. Ord. No. 12025, Dec. 1, 1977, 42 F.R. 61447, provided:

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, it is ordered as follows:

SECTION 1. The following offices and positions are placed in level IV of the Executive Schedule:

(1) Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare.

* * * * *

[(6), (7) Deleted.]

* * * * *

[(11) Deleted.]

(12) Adviser to the Secretary and Deputy Secretary of Defense for NATO Affairs, Department of Defense.

* * * * *

[(14) Deleted.]

(15) Director, Office of Congressional and Public Affairs, Department of Agriculture.

* * * * *

SEC. 2. The following offices and positions are placed in level V of the Executive Schedule:

(1) Principal Deputy Assistant Secretary for Communications, Command, Control and Intelligence, Department of Defense.

* * * * *

(9) Director of Policy Review, Department of Defense.

* * * * *

(13) Executive Director, Federal Personnel Management Systems Study, United States Civil Service Commission.

(14) Assistant to the Secretary and Land Utilization Adviser, Department of the Interior.

(15) Executive Assistant and Counselor to the Secretary, Department of Labor.

* * * * *

§ 5318. Adjustments in rates of pay

FISCAL YEAR 1977 LIMITATION ON PAY ADJUSTMENTS FOR CERTAIN POSITIONS

Pub. L. 94-440, title II, § 100, Oct. 1, 1976, 90 Stat. 1446, provided that: "No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a Delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office except increases submitted by the President pursuant to section 225 of the Federal Salary Act of 1967."

1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR CERTAIN POSITIONS

Pub. L. 95-66, July 11, 1977, 91 Stat. 270, provided that: "The first adjustment which, but for this Act, would be made after the date of enactment of this Act under the following provisions of law in the salary or rate of pay of positions or individuals to which such provisions apply, shall not take effect:

"(1) the second sentence of section 104 of title 3, United States Code, relating to comparability adjustments in the salary of the Vice President of the United States;

"(2) paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), relating to comparability adjustments in the annual rate of pay of Members of Congress;

"(3) section 461 of title 28, United States Code, relating to comparability adjustments in the salary and rate of pay of justices, judges, commissioners, and referees; and

"(4) section 5318 of title 5, United States Code, relating to comparability adjustments in the annual rate of pay for positions in the Executive Schedule."

SUBCHAPTER III—GENERAL SCHEDULE PAY RATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3102, 3109, 3374, 4301, 5301, 5304, 5306, 5362, 5541, 5544, 5545, 7154 of this title; title 2 sections 60e-2, 60e-2a, 60e-2b, 60e-6, 162a, 166, 197, 293, 353, 356; title 4 section 142; title 7 sections 511m, 610, 1507, 1642, 1981; title 8 section 1103; title 10 sections 4540, 7212, 9540; title 12 sections 1701c, 2405; title 13 section 23; title 15 sections 78d, 78s, 79z-5, 80a-45, 80b-18, 205i, 278e, 327, 634d, 714g, 714h, 715h, 717q, 1023, 1942, 2451; title 16 sections 18c, 450jj-1, 470m, 590d, 793, 825i, 832i, 833h, 916l; title 18 section 4001; title 20 sections 74, 75f, 76dd, 80g, 241, 1089, 1102, 1145, 1221d, 1221e, 1417, 2106; title 22 sections 272a, 277d-3, 277d-19, 280b, 280i, 280k, 287e, 287r, 289b, 290b, 886, 928, 1044, 2024, 2083, 2454, 2581, 2873, 3008; title 25 sections 2a, 305a, 633, 640, 640d-11; title 26 sections 7471, 9010, 9040; title 28 sections 603, 625, 626; title 29 sections 172, 661, 676; title 30 sections 556, 664, 823; title 33 sections 569a, 984, 1325, 1374; title 35 sections 3, 7; title 38 sections 2003, 4107; title 40 sections 13b, 166b-1f, 166b-3, 174j-8, 609, 873; title 41 sections 38, 46, 104; title 42 sections 204, 217a, 246, 907a, 1320a-4, 1563, 1731, 1855f, 1873, 1962a-4, 2000e-4, 2000g, 2201, 2473, 2492, 3525, 4276, 4365, 4372, 5149; title 43 sections 316n, 1399, 1616, 1731; title 45 sections 154, 362; title 46 sections 1111, 1126; title 47 section 154; title 49 sections 231, 1322, 1343, 1441; title 50 sections 402, 404; title 50 App. sections 460, 2001, 2153, 2162, 2168, 2169, 2253.

§ 5332. The General Schedule

EXECUTIVE ORDER NO. 11941

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R.

47213, set out as a note under this section in the 1976 edition of this Code, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note below.

EX. ORD. NO. 12010. ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1977

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Statutory Pay Systems.* Pursuant to the provisions of subchapter I of Chapter 53 of Title 5 of the United States Code, the rates of basic pay and salaries are adjusted, as set forth at the schedules attached hereto and made a part hereof, for the following statutory pay systems:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) the schedules for the Foreign Service (22 U.S.C. 867 and 870(a)) at Schedule 2; and

(c) the schedules for the Department of Medicine and Surgery, Veterans Administration (38 U.S.C. 4107) at Schedule 3.

SEC. 2. *Pay and Allowances for Members of the Uniformed Services.* Pursuant to the provisions of Section 1009 of Title 37 of the United States Code, the rates of monthly basic pay (37 U.S.C. 203(a) and (c)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) are adjusted, as set forth at Schedule 4 attached hereto and made a part hereof, for members of the uniformed services.

SEC. 3. *Effective Date.* The adjustments in rates of monthly basic pay and basic allowances for subsistence and quarters for members of the uniformed services shall be effective on October 1, 1977. All other adjustments of salary or pay shall be effective on the first day of the first applicable pay period beginning on or after October 1, 1977.

SEC. 4. *Superseded Orders.* Executive Order No. 11941 of October 1, 1976, is superseded.

JIMMY CARTER.

SCHEDULE 1

The General Schedule

	1	2	3	4	5	6	7	8	9	10
GS-1	$6,219	$6,426	$6,633	$6,840	$7,047	$7,254	$7,461	$7,668	$7,875	$8,082
GS-2	7,035	7,270	7,505	7,740	7,975	8,210	8,445	8,680	8,915	9,150
GS-3	7,930	8,194	8,458	8,722	8,986	9,250	9,514	9,778	10,042	10,306
GS-4	8,902	9,199	9,496	9,793	10,090	10,387	10,684	10,981	11,278	11,575
GS-5	9,959	10,291	10,623	10,955	11,287	11,619	11,951	12,283	12,615	12,947
GS-6	11,101	11,471	11,841	12,211	12,581	12,951	13,321	13,691	14,061	14,431
GS-7	12,336	12,747	13,158	13,569	13,980	14,391	14,802	15,213	15,624	16,035
GS-8	13,662	14,117	14,572	15,027	15,482	15,937	16,392	16,847	17,302	17,757
GS-9	15,090	15,593	16,096	16,599	17,102	17,605	18,108	18,611	19,114	19,617
GS-10	16,618	17,172	17,726	18,280	18,834	19,388	19,942	20,496	21,050	21,604
GS-11	18,258	18,867	19,476	20,085	20,694	21,303	21,912	22,521	23,130	23,739
GS-12	21,883	22,612	23,341	24,070	24,799	25,528	26,257	26,986	27,715	28,444
GS-13	26,022	26,889	27,756	28,623	29,490	30,357	31,224	32,091	32,958	33,825
GS-14	30,750	31,775	32,800	33,825	34,850	35,875	36,900	37,925	38,950	39,975
GS-15	36,171	37,377	38,583	39,789	40,995	42,201	43,407	44,613	45,819	47,025
GS-16	42,423	43,837	45,251	46,665	48,079*	49,493*	50,907*	52,321*	53,735*	
GS-17	49,696*	51,353*	53,010*	54,667*	56,324*					
GS-18	58,245*									

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $47,500.

SCHEDULE 2

Foreign Service Schedules

PART I—THE PER ANNUM SALARIES OF FOREIGN SERVICE OFFICERS

	1	2	3	4	5	6	7
FSO-01	$54,837*	$56,665*	$58,245*				
FSO-02	42,114	43,518	44,922	$46,326	$47,730*	$49,134*	$50,538*
FSO-03	32,836	33,931	35,026	36,121	37,216	38,311	39,406
FSO-04	26,022	26,889	27,756	28,623	29,490	30,357	31,224
FSO-05	20,983	21,682	22,381	23,080	23,779	24,478	25,177
FSO-06	17,231	17,805	18,379	18,953	19,527	20,101	20,675
FSO-07	14,429	14,910	15,391	15,872	16,353	16,834	17,315
FSO-08	12,336	12,747	13,158	13,569	13,980	14,391	14,802

PART II—THE PER ANNUM SALARIES OF FOREIGN STAFF OFFICERS AND EMPLOYEES

	1	2	3	4	5	6	7	8	9	10
FSS-01	$32,836	$33,931	$35,026	$36,121	$37,216	$38,311	$39,406	$40,501	$41,596	$42,691
FSS-02	26,022	26,889	27,756	28,623	29,490	30,357	31,224	32,091	32,958	33,825
FSS-03	20,983	21,682	22,381	23,080	23,779	24,478	25,177	25,876	26,575	27,274
FSS-04	17,231	17,805	18,379	18,953	19,527	20,101	20,675	21,249	21,823	22,397
FSS-05	15,417	15,931	16,445	16,959	17,473	17,987	18,501	19,015	19,529	20,043
FSS-06	13,802	14,262	14,722	15,182	15,642	16,102	16,562	17,022	17,482	17,942
FSS-07	12,361	12,773	13,185	13,597	14,009	14,421	14,833	15,245	15,657	16,069
FSS-08	11,076	11,445	11,814	12,183	12,552	12,921	13,290	13,659	14,028	14,397
FSS-09	9,927	10,258	10,589	10,920	11,251	11,582	11,913	12,244	12,575	12,906
FSS-10	8,902	9,199	9,496	9,793	10,090	10,387	10,684	10,981	11,278	11,575

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $47,500.

SCHEDULE 3

Department of Medicine and Surgery Schedules, Veterans Administration

	Minimum	Maximum
Section 4103 Schedule:		
Chief Medical Director		$65,317***
Deputy Chief Medical Director		62,657**
Associate Deputy Chief Medical Director.		60,014*
Assistant Chief Medical Director		58,245*
Medical Director	$49,696*	56,324*
Director of Nursing Service	49,696*	56,324*
Director of Podiatric Service	42,423	53,735*
Director of Chaplain Service	42,423	53,735*
Director of Pharmacy Service	42,423	53,735*
Director of Dietetic Service	42,423	53,735*
Director of Optometric Service	42,423	53,735*
Physician and Dentist Schedule:		
Director grade	$42,423	$53,735*
Executive grade	39,172	50,926*
Chief grade	36,171	47,025
Senior grade	30,750	39,975
Intermediate grade	26,022	33,825
Full grade	21,883	28,444
Associate grade	18,258	23,739
Nurse Schedule:		
Director grade	$36,171	$47,025
Assistant Director grade	30,750	39,975
Chief grade	26,022	33,825
Senior grade	21,883	28,444
Intermediate grade	18,258	23,739
Full grade	15,090	19,617
Associate grade	12,986	16,883
Junior grade	11,101	14,431
Clinical Podiatrist and Optometrist Schedule:		
Chief grade	$36,171	$47,025
Senior grade	30,750	39,975
Intermediate grade	26,022	33,825
Full grade	21,883	28,444
Associate grade	18,258	23,739

*Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $47,500.

**Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level IV of the Executive Schedule which is, as of the effective date of this schedule, $50,000.

***Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level III of the Executive Schedule which is, as of the effective date of this schedule, $52,500.

SCHEDULE 4

Pay and Allowances of the Uniformed Services

PART I—MONTHLY BASIC PAY

(Years of service computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10[1]	$3126.30	$3236.40	$3236.40	$3236.40	$3236.40
O-9	2770.80	2843.70	2904.00	2904.00	2904.00
O-8	2509.50	2584.80	2646.30	2646.30	2646.30
O-7	2085.30	2227.20	2227.20	2227.20	2326.80
O-6	1545.60	1698.60	1809.00	1809.00	1809.00
O-5	1236.30	1452.00	1551.90	1551.90	1551.90
O-4	1042.20	1268.40	1353.60	1353.60	1378.20
O-3[2]	968.40	1082.70	1157.10	1280.40	1341.60
O-2[2]	844.20	922.20	1107.90	1145.10	1168.80
O-1[2]	732.90	762.90	922.20	922.20	922.20

	Over 8	Over 10	Over 12	Over 14	Over 16
O-10[1]	$3360.30	$3360.30	$3618.00	$3618.00	$3876.60
O-9	2978.10	2978.10	3101.40	3101.40	3360.30
O-8	2843.70	2843.70	2978.10	2978.10	3101.40
O-7	2326.30	2462.10	2462.10	2584.80	2843.70
O-6	1809.00	1809.00	1809.00	1870.50	2166.90
O-5	1551.90	1599.30	1684.80	1797.30	1932.30
O-4	1439.70	1537.50	1624.20	1698.60	1772.40
O-3[2]	1390.20	1464.60	1537.50	1575.30	1575.30
O-2[2]	1168.80	1168.80	1168.80	1168.80	1168.80
O-1[2]	922.20	922.20	922.20	922.20	922.20

	Over 18	Over 20	Over 22	Over 26	Over 30
O-10[1]	$3876.60	$4136.10*	$4136.10*	$4393.80*	$4393.80*
O-9	3360.30	3618.00	3618.00	3876.60	3876.60
O-8	3236.40	3360.30	3495.00	3495.00	3495.00
O-7	3039.00	3039.00	3039.00	3039.00	3039.00
O-6	2277.60	2326.80	2462.10	2670.00	2670.00
O-5	2043.30	2104.80	2178.60	2178.60	2178.60
O-4	1821.90	1821.90	1821.90	1821.90	1821.90
O-3[2]	1575.30	1575.30	1575.30	1575.30	1575.30
O-2[2]	1168.80	1168.80	1168.80	1168.80	1168.80
O-1[2]	922.20	922.20	922.20	922.20	922.20

[1] While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $4848.00* regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

[2] Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

*Basic pay is limited by Section 5308 of Title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $3958.20 per month.

Commissioned officers who have been credited with over 4 years' active service as enlisted members

(Years of service computed under 37 U.S.C. 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10
O-3	$1280.40	$1341.60	$1390.20	$1464.60
O-2	1145.10	1168.80	1206.00	1268.40
O-1	922.20	984.90	1021.50	1058.40

	Over 12	Over 14	Over 16	Over 18
O-3	$1537.50	$1599.30	$1599.30	$1599.30
O-2	1317.30	1353.60	1353.60	1353.60
O-1	1095.30	1145.10	1145.10	1145.10

	Over 20	Over 22	Over 26	Over 30
O-3	$1599.30	$1599.30	$1599.30	$1599.30
O-2	1353.60	1353.60	1353.60	1353.60
O-1	1145.10	1145.10	1145.10	1145.10

Warrant Officers

(Years of service computed under 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-4	$ 986.40	$1058.40	$1058.40	$1082.70	$1131.90
W-3	897.00	972.90	972.90	984.90	996.60
W-2	785.40	849.30	849.30	874.20	922.20
W-1	654.30	750.30	750.30	812.70	849.30

	Over 8	Over 10	Over 12	Over 14	Over 16
W-4	$1181.70	$1231.20	$1317.30	$1378.20	$1427.10
W-3	1069.50	1131.90	1168.80	1206.00	1242.00
W-2	972.90	1009.50	1046.40	1082.70	1120.50
W-1	886.20	922.20	960.30	996.60	1033.50

	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	$1464.60	$1512.90	$1563.38	$1684.80	$1684.80
W-3	1280.40	1329.90	1378.20	1427.10	1427.10
W-2	1157.10	1193.70	1242.00	1242.00	1242.00
W-1	1069.50	1107.90	1107.90	1107.90	1107.90

Enlisted Members

(Years of service computed under 37 U.S.C. 295)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9[1]	$0	$0	$0	$0	$0
E-8	0	0	0	0	0
E-7	656.70	708.60	735.00	760.50	786.90
E-6	567.00	618.30	644.10	671.10	696.00
E-5	498.00	541.80	568.20	592.80	631.50
E-4	478.50	505.20	534.90	576.60	599.40
E-3	460.20	485.40	504.90	525.00	525.00
E-2	443.10	443.10	443.10	443.10	443.10
E-1	397.50	397.50	397.50	397.50	397.50

	Over 8	Over 10	Over 12	Over 14	Over 16
E-9[1]	$0	$1120.80	$1146.30	$1172.40	$1199.40
E-8	940.50	966.60	992.40	1018.50	1044.90
E-7	811.50	837.30	863.70	902.70	928.20
E-6	721.80	748.20	786.90	811.50	837.30
E-5	657.30	683.70	708.60	721.80	721.80
E-4	599.40	599.40	599.40	599.40	599.40
E-3	525.00	525.00	525.00	525.00	525.00
E-2	443.10	443.10	443.10	443.10	443.10
E-1	397.50	397.50	397.50	397.50	397.50

	Over 18	Over 20	Over 22	Over 26	Over 30
E-9[1]	$1225.80	$1249.80	$1315.80	$1443.30	$1443.30
E-8	1069.20	1095.60	1159.80	1289.40	1289.40
E-7	954.30	966.60	1031.70	1159.80	1159.80
E-6	850.20	850.20	850.20	850.20	850.20
E-5	721.80	721.80	721.80	721.80	721.80
E-4	599.40	599.40	599.40	599.40	599.40
E-3	525.00	525.00	525.00	525.00	525.00
E-2	443.10	443.10	443.10	443.10	443.10
E-1	397.50	397.50	397.50	397.50	397.50

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1754.40 regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

PART II—BASIC ALLOWANCE FOR SUBSISTENCE RATES

Officers	$59.53 per month
Enlisted Members:	
When on leave or authorized to mess separately.	$ 2.84 per day
When rations in-kind are not available.	$ 3.20 per day
When assigned to duty under emergency conditions where no messing facilities of the United States are available.	$ 4.25 per day

PART III—BASIC ALLOWANCE FOR SUBSISTENCE RATES

Pay Grade	Without dependents: Full rate[1]	Without dependents: Partial rate[2]	With dependents
Commissioned Officers:			
O-10	$339.30	$50.70	$424.20
O-9	339.30	50.70	424.20
O-8	339.30	50.70	424.20
O-7	339.30	50.70	424.20
O-6	304.50	39.60	371.40
O-5	280.80	33.00	338.10
O-4	249.90	26.70	301.80
O-3	219.90	22.20	271.20
O-2	190.80	17.70	241.50
O-1	148.80	13.20	193.80
Warrant Officers:			
W-4	240.90	25.20	290.70
W-3	214.80	20.70	264.60
W-2	186.90	15.90	237.30
W-1	168.60	13.80	218.40
Enlisted Members:			
E-9	181.80	18.60	255.60
E-8	167.40	15.30	236.40
E-7	142.50	12.00	219.90
E-6	129.30	9.90	202.20
E-5	124.20	8.70	185.70
E-4	109.80	8.10	163.50
E-3	98.10	7.80	142.50
E-2	86.70	7.20	142.50
E-1	81.90	6.90	142.50

[1] Payment of the full rate of basic allowance for quarters at these rates for members of the uniformed services to personnel without dependents is authorized by 37 U.S.C. 403 and Part IV of Executive Order No. 11157, as amended.

[2] Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and Part IV of Executive Order No. 11157, as amended.

PART IV—MONTHLY RATE OF CADET OR MIDSHIPMAN PAY

The rate of monthly cadet pay or midshipman pay authorized by Section 203(c) of Title 37 of the United States Code is adjusted from $313.20 to $332.70.[1]

[1] Notwithstanding this adjustment under 37 U.S.C. 203(c), pursuant to Section 302(b) of Public Law 95-79 (91 Stat. 326, 37 U.S.C. 203 note) the minimum rate of monthly cadet pay or midshipman pay is $345.00.

Section Referred to in Other Sections

This section is referred to in sections 575, 3109, 5303, 5364, 6301 of this title; title 2 sections 60a-1, 60a-2, 166, 353, 414, 416, 437c, 476, 601; title 7 sections 16, 3127; title 10 sections 867, 4540, 7212, 9540; title 12 sections 635a, 1749bbb-1, 2405; title 15 sections 205h, 205i, 2412, 2451; title 16 sections 470m, 1401, 1403; title 17 section 802; title 18 sections 3153, 4202, 4204, 4351, 4352; title 19 sections 1331, 2171; title 20 sections 955, 957, 963, 1102, 1135c-1, 1221e, 1221f, 1233c, 1233d, 1402, 1505, 1532, 2011, 2012, 2103, 2390; title 21 sections 113a, 376; title 22 sections 1037a, 2385, 2386, 2512, 2903, 2905; title 25 section 640d-11; title 26 section 4946; title 28 sections 332, 548, 625; title 29 sections 183, 656, 661, 676, 774, 792; title 30 sections 812, 938,

1229, 1315; title 31 section 52c; title 32 section 709; title 33 sections 906, 1128, 1320, 1325, 1374; title 37 section 1009; title 40 section 166b-1; title 41 section 351; title 42 sections 300j-10, 1320a-1, 1320c-12, 1395oo, 1863, 1873, 1962a-4, 1962b-4, 1975d, 2968, 3015, 3525, 3765, 3774, 4365, 4372, 4845, 5042, 5612, 5619, 5651, 5841, 6614, 6616, 6632, 7211, 7213, 7231, 7233, 7546, 7623; title 44 section 3319; title 45 section 715; title 49 section 26b; title 50 App. section 2169.

§ 5333. Minimum rate for new appointments; higher rates for supervisors of wage-board employees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 84; title 10 sections 4540, 7212, 9540.

§ 5334. Rate on change of position or type of appointment; regulations

REFERENCES IN TEXT

Section 3182(2) of title 42, referred to in subsec. (a) was redesignated as section 3182(a)(2) of title 42 by Pub. L. 91-123, § 204.

SUBCHAPTER IV—PREVAILING RATE SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2105, 5541, 7154 of this title; title 31 section 665a; title 40 section 174j-8.

§ 5342. Definitions; application

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 1320a-4; title 50 App. section 2168.

§ 5361. Scientific and professional positions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3104 of this title; title 49 section 1343.

§ 5362. Hearing examiners

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 30 section 823; title 42 sections 2000e-4, 3608.

CHAPTER 55—PAY ADMINISTRATION

SUBCHAPTER II—WITHHOLDING PAY

Sec.
5520. Withholding of city or county income or employment taxes.

AMENDMENTS

1977—Pub. L. 95-30, title IV, § 408(b), May 23, 1977, 91 Stat. 157, substituted "city or county" for "city" in item 5520.

SUBCHAPTER I—GENERAL PROVISIONS

§ 5504. Biweekly pay periods; computation of pay

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5332, 5505 of this title; title 2 section 142e; title 40 sections 166b-1d, 166b-1e.

§ 5505. Monthly pay periods; computation of pay

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 142e; title 26 section 7443.

SUBCHAPTER II—WITHHOLDING PAY

CROSS REFERENCES

Enforcement of legal obligations to provide child support and make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

§ 5520. Withholding of city or county income or employment taxes

(a) When a city or county ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city or county officer, department, or instrumentality; and

(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city or county in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city or county within 120 days of a request for agreement by the proper city or county official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made. The agreement may not apply to pay for service as a member of the Armed Forces. The agreement may not permit withholding of a city or county tax from the pay of an employee who is not a resident of the State in which that city or county is located unless the employee consents to the withholding.

(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other em-

ployers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city or county for services performed in withholding city or county income or employment taxes from the pay of employees of the agency.

(c) For the purpose of this section—

(1) "city" means any unit of general local government which—

(A) is classified as a municipality by the Bureau of the Census, or

(B) is a town or township which, in the determination of the Secretary of the Treasury—

(i) possesses powers and performs functions comparable to those associated with municipalities,

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(2) "county" means any unit of local general government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(3) "ordinance" means an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the State in which it is located and which has the force of law within such city or county; and

(4) "agency" means—

(A) an Executive agency;

(B) the judicial branch; and

(C) the United States Postal Service.

(As amended Pub. L. 95-30, title IV, § 408(a), May 23, 1977, 91 Stat. 157.)

AMENDMENTS

1977—Pub. L. 95-30, § 408(a)(1), inserted "or county" after "city" in the section catchline.

Subsec. (a). Pub. L. 95-30, § 408(a)(2), (3), substituted "city or county" for "city" in the introductory provisions preceding par. (1), in par. (2), and in the provisions following par. (2), and, in par. (1), substituted "a designated city or county officer, department, or instrumentality" for "the city".

Subsec. (b). Pub. L. 95-30, § 408(a)(2), substituted "city or county" for "city".

Subsec. (c). Pub. L. 95-30, § 408(a)(4), (5), added pars. (2) and (3), and redesignated former par. (2) as (4).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 408(c) of Pub. L. 95-30 provided that: "The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [May 23, 1977]."

EXECUTIVE ORDER No. 11968

Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, set out as a note under this section in the 1976 edition of this Code, which related to the withholding of District of Columbia, state and city income or employment taxes, was revoked by Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, set out as a note below.

EX. ORD. No. 11997. WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY AND COUNTY INCOME OR EMPLOYMENT TAXES

Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, provided:

By virtue of the authority vested in me by Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to authorize the Secretary of the Treasury to provide for the withholding of county income or employment taxes as authorized by Section 5520 of Title 5 of the United States Code as amended by Section 408 of Public Law 95-30, as well as to provide for the withholding of District of Columbia, State and city income or employment taxes, it is hereby ordered as follows:

SECTION 1. Whenever the Secretary of the Treasury enters into an agreement pursuant to Sections 5516, 5517 or 5520 of Title 5 of the United States Code, with the District of Columbia, a State, a city or a county, as the case may be, with regard to the withholding, by an agency of the United States, hereinafter referred to as an agency, of income or employment taxes from the pay of Federal employees or members of the Armed Forces, the Secretary of the Treasury shall ensure that each agreement is consistent with those sections and regulations, including this Order, issued thereunder.

SEC. 2. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on the withholding certificate of an employee or a member of the Armed Forces in withholding taxes, (c) that the method for calculating the amount to be withheld for District of Columbia, State, city or county income or employment taxes shall produce approximately the tax required to be withheld by the District of Columbia or State law; or city or county ordinance, whichever is applicable, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the District of Columbia, a State, a city or a county shall conform to the usual fiscal practices of agencies. Any agreement affecting members of the Armed Forces shall also provide that the head of an agency may rely on the certificate of legal residence of a member of the Armed Forces in determining his or her residence for tax withholding purposes. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee or a member of the Armed Forces.

SEC. 3. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct payment of the taxes withheld, in accordance with this Order, any regulations prescribed by the Secretary of the Treasury, and the new applicable agreement.

SEC. 4. The Secretary of the Treasury is authorized to prescribe additional regulations to implement Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and this Order.

SEC. 5. Executive Order No. 11968 of January 31, 1977, is hereby revoked. However, all actions heretofore taken by the President or his delegates in respect of the matters affected by this Order and in force at the time of the issuance of this Order, including any regulations prescribed or approved by the President or his delegates in respect of such matters and any existing agreements approved by his delegates, shall, except as they may be inconsistent with the provisions of this Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order, unless sooner terminated by operation of law.

JIMMY CARTER.

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

§ 5532. Employment of retired officers of the uniformed services; reduction in retired or retirement pay; exceptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5531, 8116 of this title; title 22 section 2584; title 39 section 410; title 42 section 2038.

§ 5533. Dual pay from more than one position; limitations; exceptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5531 of this title; title 2 section 162; title 13 section 23; title 15 section 327; title 20 section 907; title 22 section 2396; title 33 section 873; title 39 section 1001.

SUBCHAPTER V—PREMIUM PAY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 2 section 167.

§ 5541. Definitions

For the purpose of this subchapter—

[*See main edition for text of* (*1*)]

(2) "employee" means—

[*See main edition for text of* (*A*) *to* (*C*)]

but does not include—

[*See main edition for text of* (*i*) *to* (*xi*)]

(xii) an employee of the Transportation Corps of the Army on a vessel operated by the United States, a vessel employee of the Environmental Science Services Administration, a vessel employee of the Department of the Interior, or a vessel employee of the Panama Canal Company;

(xiii) a "teacher" or an individual holding a "teaching position" as defined by section 901 of title 20;

(xiv) a "Foreign Service officer" within the meaning of section 401 of the Foreign Service Act of 1946; or

(xv) a "Foreign Service information officer" as provided for by the first section of the Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the United States Information Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968.

(As amended Pub. L. 95-105, title IV, § 412(a)(1), Aug. 17, 1977, 91 Stat. 855.)

REFERENCES IN TEXT

Section 401 of the Foreign Service Act of 1946, referred to in par. (2)(xiv), is classified to section 861 of Title 22, Foreign Relations and Intercourse.

The first section of the Act entitled "An Act to promote the foreign policy of the United States by strengthing and improving the Foreign Service personnel system of the United States Information Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968, referred to in par. (2)(xv), is classified to section 1221 of Title 22.

AMENDMENTS

1977—Par. (2). Pub. L. 95-105 added cls. (xiv) and (xv).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 412(a)(2) of Pub. L. 95-105 provided that: "The amendments made by paragraph (1) [amending par. (2) of this section] shall take effect on October 1, 1978."

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 18 section 1923; title 22 section 889; title 50 App. section 1291.

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3375, 3381, 4109, 5354, 5723, 5751 of this title; title 2 section 476; title 7 section 2229; title 15 section 634; title 16 sections 916*l*, 961, 1032; title 21 section 874; title 22 sections 2024, 2672; title 26 section 7471; title 28 section 792; title 42 sections 1975b, 2477, 4276, 4277; title 48 section 1407h; title 50 App. sections 2019b, 2281.

§ 5701. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 68b; title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474.

§ 5702. Per diem; employee traveling on official business

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724a of this title; title 2 sections 58, 476; title 7 sections 3128, 3194; title 16 section 971h; title 22 sections 1474, 2396; title 26 sections 274, 4941; title 31 section 1032; title 36 section 121; title 38 section 111; title 42 section 2477.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 573, 5306 of this title; title 2 sections 175, 352, 475; title 7 sections 2233, 3128, 3194; title 12 sections 635a, 1701j-2, 1701y, 1749bbb-1, 1752a; title 15 sections 637, 1204, 1475, 1942, 2077; title 16 sections 1a-2, 1105, 1156, 1401, 1403, 1460, 1604; title 18 section 4351; title 19 section 2171; title 20 sections 955, 957, 959, 963, 1221e, 1233c, 1505, 2012; title 21 sections 360c, 360d, 360e, 360j, 376, 1115; title 22 sections 287o, 287q, 290f, 1471, 1474, 2102, 2103, 2199, 2351, 2456, 2581, 2672b, 2872, 2873, 2903, 2905, 3106; title 25 section 305; title 29 sections 308e, 656, 774, 792, 952, 1142, 1302; title 30 sections 663, 812, 1229, 1315; title 33 sections 426, 857-16, 1320; title 36 section 121; title 40 sections 333, 486, 822, 872; title 41 section 46; title 42 sections 210, 242*l*, 254j, 286a, 286f, 287f, 289c-3a, 289c-7, 295d-2, 300d-8, 300j-5, 300k-3, 907, 1108, 1314, 1320a-1, 1320c-12, 1395dd, 1870, 1873, 1975b, 2473, 2495, 2689q, 2942, 3015, 3211, 3535, 3609, 3742, 3747, 3765, 4025, 4532, 4553, 4768, 4914, 5032,

5042, 5404, 5651, 5661, 6007, 6614, 6632, 7234, 7417, 7546, 7623; title 44 section 3318; title 46 section 1482; title 47 section 396; title 49 sections 1343, 1657, 1673; title 50 App. section 2168.

§ 5704. Mileage and related allowances

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5707, 5724 of this title; title 2 section 476; title 7 sections 3128, 3194; title 13 sections 24, 26; title 16 section 971h; title 22 section 1474; title 30 sections 812, 1229; title 33 section 1320; title 39 section 111; title 42 section 2477.

§ 5705. Advancements and deductions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724 of this title; title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474.

§ 5706. Allowable travel expenses

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474.

§ 5707. Regulations and reports

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5702, 5704, 5709 of this title; title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474; title 40 section 872.

SUBCHAPTER II—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

§ 5731. Expenses limited to lowest first-class rate

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 476; title 16 sections 916*l*, 961, 971h, 1032; title 22 sections 287e, 287r, 1157, 2024; title 42 sections 2477, 4277; title 50 section 403e.

CHAPTER 59—ALLOWANCES

SUBCHAPTER II—QUARTERS

§ 5911. Quarters and facilities; employees in the United States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 754; title 29 section 993d.

Subpart E—Attendance and Leave

CHAPTER 61—HOURS OF WORK

§ 6103. Holidays

(a) The following are legal public holidays:

New Year's Day, January 1.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

[*See main edition for text of* (b), (c)]

(As amended Pub. L. 94-97, Sept. 18, 1975, 89 Stat. 479.)

REFERENCES IN TEXT

Section 6309 of this title, referred to in subsec. (b)(1)(B), was repealed by Pub. L. 94-183, § 2(26), Dec. 31, 1975, 89 Stat. 1058.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-97 changed Veterans Day from the fourth Monday in October to November 11.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-97 provided that the amendment of subsec. (a) is effective Jan. 1, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6104 of this title; title 21 section 1053; title 29 section 1201; title 38 section 3020; title 42 section 909.

CHAPTER 63—LEAVE

SUBCHAPTER I—ANNUAL AND SICK LEAVE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5508, 5551 of this title; title 22 section 1151; title 46 section 1126.

§ 6308. Transfers between positions under different leave systems

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6312 of this title; title 46 section 1126.

Subpart F—Employee Relations

CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

SUBCHAPTER I—REGULATION OF CONDUCT

§ 7301. Presidential regulations

EX. ORD. NO. 11491. LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, as amended by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743; Ex. Ord. No. 11901, Jan. 30, 1976, 41 F.R. 4807; Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851, provided:

* * * * *

GENERAL PROVISIONS

* * * * *

SEC. 3. *Application.* (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

* * * * *

(6) The Tennessee Valley Authority.

* * * * *

MISCELLANEOUS PROVISIONS

* * * * *

SEC. 25. *Guidance, training, review and information.* The Civil Service Commission, in conjunction with the Director of the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and shall periodically review the implementation of these policies. The Civil Service Commission shall be responsible for the day-to-day policy guidance under that program. The Civil Service Commission also shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

SUBCHAPTER III—POLITICAL ACTIVITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 sections 3522, 4309, 5055.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7325, 7326, 7327 of this title; title 42 sections 1973d, 2000e–4; title 50 App. section 463.

SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

§ 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) "foreign government" means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) "minimal value" means a retail value in the United States at the time of acceptance of $100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, "minimal value" shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define "minimal value" for its employees to be less than the value established under this paragraph; and

(6) "employing agency" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

(b) An employee may not—

(1) request or otherwise encourage the tender of a gift or decoration; or

(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing agency; or

(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e).

(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use or forwarding to the Administrator of General Services for disposal in accordance with subsection (e).

(e) Gifts and decorations that have been deposited with an employing agency for disposal shall be (1) returned to the donor, or (2) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(f)(1). Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

(As amended Pub. L. 95-105, title V, § 515(a)(1), Aug. 17, 1977, 91 Stat. 862.)

REFERENCES IN TEXT

Section 152 of the Internal Revenue Code of 1954, referred to in subsec. (a)(1)(G), is classified to section 152 of Title 26, Internal Revenue Code.

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (e), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

Section 108A of the Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (k), is classified to section 2458a of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-105 in par. (1) added provisions expanding definition of "employee" to include an officer or employee of the United States Postal Service or Postal Rate Commission, certain experts and consultants, the Vice President, and any Delegate to Congress, in par. (2) incorporated existing provisions into subpars. (A) and (C) and added subpar. (B), in par. (3) substituted reference to tangible or intangible present for reference to present, in par. (4) added reference to award, and added pars. (5) and (6).

Subsec. (b). Pub. L. 95-105 designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 95-105 incorporated existing provisions of pars. (1) and (2) into par. (1), and in par. (1) as so incorporated, added provisions giving congressional consent to acceptance of a gift in the nature of an educational scholarship, medical treatment, or travel or travel expenses and added pars. (2) and (3).

Subsec. (d). Pub. L. 95-105 struck out provisions requiring the Secretary of State to concur with the approval of the employing agency and substituted provisions requiring the employee to deposit property within 60 days of acceptance with the employing agency for official use or forwarding to the Administrator of General Services for disposal for provisions requiring the employee to deposit the decoration for use and disposal as the property of the United States under regulations prescribed under this section.

Subsec. (e). Pub. L. 95-105 substituted provisions relating to the disposal of decorations for provisions authorizing the President to prescribe regulations to carry out the purposes of this section.

Subsecs. (f) to (k). Pub. L. 95-105 added subsecs. (f) to (k).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 515(a)(2) of Pub. L. 95-105 provided that: "The amendment made by paragraph (1) of this subsection [amending this section] shall take effect on January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 2458a, 2694.

CHAPTER 75—ADVERSE ACTIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3382 of this title; title 39 section 1005; title 50 App. section 2168.

SUBCHAPTER I—COMPETITIVE SERVICE

§ 7501. Cause; procedure; exception

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403.

SUBCHAPTER II—PREFERENCE ELIGIBLES

§ 7511. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7501, 7701 of this title; title 22 section 1438; title 32 section 709; title 38 sections 106, 4202.

§ 7512. Cause; procedure; exception

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3315, 7701 of this title; title 22 section 1438; title 32 section 709; title 38 sections 106, 4202; title 50 sections 832, 833.

SUBCHAPTER III—HEARING EXAMINERS

§ 7521. Removal

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 30 section 823; title 39 section 3601; title 42 sections 2000e-4, 3608.

SUBCHAPTER IV—NATIONAL SECURITY

§ 7531. Definitions

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 7532. Suspension and removal

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3571, 7312, 7501, 7512 of this title; title 50 sections 832, 833.

§ 7533. Effect on other statutes

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and its functions referred to in this section were transferred to the Administrator of the Energy Research and Development Administration and the Nuclear Regulatory Commission (unless otherwise specifically provided) by sections 5814 and 5841 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 77—APPEALS

§ 7701. Appeals of preference eligibles

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438; title 38 sections 106, 4202.

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

SUBCHAPTER I—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2105, 3373, 3374, 3582, 5595, 8191, 8192, 8332, 8337, 8705, 8706, 8901 of this title; title 2 section 31b-5; title 7 section 1507; title 14 section 760; title 16 sections 1a-6, 18i, 558c, 580j, 831b; title 18 sections 292, 1920, 1922, title 22 sections 889, 1079d, 1079o, 1081; title 25 section 450i; title 29 sections 926, 993d; title 33 sections 941, 947; title 38 sections 106, 416, 417; title 39 section 1005; title 40 section 290; title 42 sections 246, 251, 1654, 1701, 1702, 1706, 1856c, 2996d, 5055; title 50 App. sections 1291, 1292, 2004.

§ 8101. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3373, 3374, 7902, 8110, 8118, 8133, 8191, 8192 of this title; title 16 sections 1a-6, 18i, 558c; title 22 section 2679a; title 29 sections 926, 993d; title 30 section 902; title 42 sections 3796b, 5055.

§ 8122. Time for making claim

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8118, 8121 of this title.

§ 8147. Employees' Compensation Fund

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1701, 1704, 1705.

CHAPTER 83—RETIREMENT

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1308, 3373, 3374, 5581, 5595, 6303, 8103, 8116, 8501, 8701, 8901 of this title; title 2 sections 31b-5, 60e-3, 72a; title 7 section 331; title 10 sections 1450, 1452; title 11 section 68; title 12 sections 1723a, 2227; title 14 sections 433, 434; title 16 section 1168; title 22 sections 889, 1065, 1071, 2025; title 26 section 3121; title 28 sections 332, 611, 625, 627, 634; title 31 section 43; title 38 section 4202; title 40 section 13b; title 42 sections 212, 246, 410, 415, 417, 1395s, 4276; title 50 App. section 1291.

§ 8334. Deductions, contributions, and deposits

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8331, 8332, 8333, 8339, 8342, 8344 of this title; title 12 sections 1723a, 2227; title 22 section 889; title 28 sections 611, 627; title 40 section 881.

§ 8344. Annuities and pay on reemployment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8339 of this title; title 11 section 68; title 22 sections 2512, 2584; title 28 sections 625, 634.

§ 8346. Exemption from legal process; recovery of payments

CROSS REFERENCES

Enforcement of legal obligations to provide child support or make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

§ 8348. Civil Service Retirement and Disability Fund

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8331 of this title; title 20 section 125; title 25 section 450i; title 39 section 1005; title 42 section 246.

CHAPTER 87—LIFE INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1104, 1308, 3373, 3374, 3582 of this title; title 2 sections 31b-5, 72a; title 20 section 125; title 22 section 2025; title 25 section 450i; title 28 sections 332, 627, 634; title 38 sections 4107, 4118; title 39 section 1005; title 42 sections 246, 2996d, 4276.

CHAPTER 89—HEALTH INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 3373, 3374, 3582 of this title; title 2 sections 31b-5, 72a; title 25 section 450i; title 28 sections 332, 627, 634; title 39 section 1005; title 42 sections 246, 300e-1, 300e-6, 426a, 1395y, 2996d.

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TITLE 5—APPENDIX

This Appendix contains the Federal Advisory Committee Act and Reorganization Plans

FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended by Pub. L. 94-409, § 5(c), Sept. 13, 1976, 90 Stat. 1247

§ 1. Short title

ACT REFERRED TO IN OTHER SECTIONS

This Act is referred to in title 7 sections 2284, 2289; title 12 section 1428a; title 15 sections 78k-1, 776; title 16 sections 463, 470q, 541g, 1612, 1826; title 19 section 2155; title 29 section 1302; title 42 sections 300j-5, 300k-3, 5816, 6007, 6708, 6838, 7234; title 43 sections 1739, 1753; title 49 section 1903; title 50 App. sections 2158, 2158a, 2169.

§ 2. Findings and purpose

EXECUTIVE ORDER NO. 11769

Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, set out as a note under this section in the 1976 edition of this Code, which related to committee management, was revoked by Ex. Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out as a note below.

EX. ORD. NO. 12024. TRANSFER OF CERTAIN ADVISORY COMMITTEE FUNCTIONS

Ex. Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), Section 301 of Title 3 of the United States Code, Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 7 of Reorganization Plan No. 1 of 1977 (42 F.R. 56101 (October 21, 1977)) [set out in this Appendix], and as President of the United States of America, in accord with the transfer of advisory committee functions from the Office of Management and Budget to the General Services Administration provided by Reorganization Plan No. 1 of 1977, it is hereby ordered as follows:

SECTION 1. The transfer, provided by Section 5F of Reorganization Plan No. 1 of 1977 (42 FR 56101) [set out in this Appendix], of certain functions under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), from the Office of Management and Budget and its Director to the Administrator of General Services is hereby effective.

SEC. 2. There is hereby delegated to the Administrator of General Services all the functions vested in the President by the Federal Advisory Committee Act, as amended, except that, the annual report to the Congress required by Section 6(c) of that Act shall be prepared by the Administrator for the President's consideration and transmittal to the Congress.

SEC. 3. The Director of the Office of Management and Budget shall take all actions necessary or appropriate to effectuate the transfer of functions provided in this Order, including the transfer of funds, personnel and positions, assets, liabilities, contracts, property, records, and other items related to the functions transferred.

SEC. 4. Executive Order No. 11769 of February 21, 1974 is hereby revoked.

SEC. 5. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned as provided in this Order from the Office of Management and Budget to the Administrator of General Services, shall remain in effect as if issued by the Administrator until amended, modified, or revoked.

SEC. 6. This Order shall be effective November 20, 1977.

JIMMY CARTER.

§ 7. Responsibilities of the Director, Office of Management and Budget; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations

TRANSFER OF FUNCTIONS

All functions of the Office of Management and Budget and the Director thereof relating to the Committee Management Secretariat were transferred to the Administrator of General Services by Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in this Appendix, effective on or before Apr. 1, 1978, at such time as specified by the President.

§ 9. Establishment and purpose of advisory committees; publication in Federal Register; charter: filing, contents, copy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 sections 2286, 2289.

§ 10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2287; title 19 section 2155; title 20 section 1233h; title 42 section 6273; title 50 App. section 2158a.

§ 11. Availability of transcripts; "agency proceeding"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 2155; title 42 section 6273; title 50 App. section 2158a.

§ 14. Termination of advisory committees; renewal; continuation

EX. ORD. NO. 11948. CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES

Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, as amended by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839; Ex. Ord. No. 12029, Dec. 14, 1977, 42 F.R. 63631, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

SEC. 1. Each advisory committee listed below is hereby continued until December 31, 1978:

(a) [Superseded by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

* * * * *

(e) [Superseded by Ex. Ord. No. 12029, Dec. 14, 1977, 42 F.R. 63631.]

* * * * *

(g) [Superseded by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

* * * * *

(i) [Superseded by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

(j) [Superseded by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

* * * * *

EX. ORD. NO. 12007. TERMINATION OF CERTAIN PRESIDENTIAL ADVISORY COMMITTEES

Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate certain advisory committees in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. (a) The Citizens' Advisory Council on the Status of Women is terminated.

(b) Executive Order No. 11126 of November 1, 1963, as amended by Executive Order No. 11221 of May 6, 1965 [set out as a note under section 2000e of Title 42, The Public Health and Welfare], is further amended as follows:

(1) Subsection (5) of Section 102 is revoked.

(2) Section 103, in order to delete a reference to the Council, is amended to read as follows:

"Annually the Committee shall transmit a report to the President concerning the status of women."

(3) Part II is revoked.

(4) The second sentence of Section 301, in order to delete references to the Council, is amended to read as follows:

"To the extent practical and to the extent permitted by law (1) all Executive agencies shall cooperate with the Committee and furnish it such information and assistance as may be necessary for the performance of its functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies, and other necessary assistance, facilities, and services for the Committee."

SEC. 2. (a) The Citizens' Advisory Committee on Environmental Quality is terminated.

(b) Part II of Executive Order No. 11472 of May 29, 1969, as amended by paragraphs (7) and (8) of Section 4 of Executive Order No. 11514 of March 5, 1970 [set out as a note under Section 4321 of Title 42, The Public Health and Welfare], is revoked.

SEC. 3. (a) The Advisory Council for Minority Enterprise is terminated.

(b) Section 2 of Executive Order No. 11625 of October 13, 1971 [set out as a note under section 631 of Title 15, Commerce and Trade]; is revoked.

SEC. 4. (a) The Consumer Advisory Council is terminated.

(b) Executive Order No. 11583 of February 24, 1971 [set out as a note under Section 887d of Title 20, Education], is amended as follows:

(1) The second sentence of subsection (b)(1) of Section 2 is amended by deleting "(including the Consumer Advisory Council established in section 5 of this order)".

(2) Section 5 is revoked.

SEC. 5. (a) The President's Advisory Board on International Investment is terminated.

(b) Executive Order No. 11962 of January 19, 1977 [set out as a note under section 3107 of Title 22, Foreign Relations and Intercourse], is revoked.

SEC. 6. Subsections (a), (g), (i), and (j) of Section 1 of Executive Order No. 11948 of December 20, 1976 [set out as a note under this section], which extended the above advisory committees until December 31, 1978, is superseded.

JIMMY CARTER.

EX. ORD. NO. 12029. TERMINATION OF A PRESIDENTIAL ADVISORY COMMITTEE

Ex. Ord. No. 12029, Dec. 14, 1977, 42 F.R. 63631, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate an advisory committee in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. (a) The Quetico-Superior Committee is terminated.

(b) Executive Order No. 11342, as amended, is revoked.

SEC. 2. Subsection (e) of Section 1 of Executive Order No. 11948 of December 20, 1976 [set out as a note under this section], which extended the above advisory committee until December 31, 1978, is superseded.

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 1142; title 42 sections 218, 254j, 292b, 300j-5, 300k-3.

REORGANIZATION PLANS

This portion of the Appendix contains Reorganization Plans which took effect in accordance with the provisions of section 901 et seq. of title 5.

REORGANIZATION PLAN NO. 8 OF 1953

Eff. Aug. 1, 1953, 18 F.R. 4542, 67 Stat. 642

* * * * *

UNITED STATES INFORMATION AGENCY

§ 1. ESTABLISHMENT OF AGENCY

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Section was amended by act June 28, 1955, ch. 189, § 12(c)(21), 69 Stat. 183 and related to the establishment of the United States Information Agency.]

§ 2. TRANSFER OF FUNCTIONS

(a) Subject to subsection (c) of this section, there are hereby transferred to the Director (1) the functions vested in the Secretary of State by title V of the United States Information and Educational Exchange Act of 1948, as amended [sections 1461 and 1462 of Title 22, Foreign Relations and Intercourse], and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act [sections 1447 and 1448 of Title 22] as is an integral part of information programs under that Act [sections 1431-1479 of Title 22], together with so much of the functions vested in the Secretary of State by other provisions of the said Act [sections 1431 to 1479 of Title 22] as is incidental to or is necessary for the performance of the functions under title V [sections 1461 and 1462 of Title 22] and sections 202 and 203 [sections 1447 and 1448 of Title 22] transferred by this section, and (2) [Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Paragraph related to functions of the Secretary of State with respect to information programs relating to Germany and Austria.]

(b) [Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Subsection related to the transfer to the Director of functions vested in the Director for Mutual Security by the Mutual Security Act of 1951, as amended, act Oct. 10, 1951, ch. 479, 65 Stat. 373, which related to foreign information programs, as formerly provided for in section 1652 of Title 22, Foreign Relations and Intercourse.]

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

* * * * *

(3) [Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Paragraph provided that nothing in subsec. (c) of this section was to affect the functions of the Secretary of State with respect to conducting negotiations with other governments.]

* * * * *

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Section related to the performance of transferred functions.]

§ 4. INCIDENTAL TRANSFERS

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Section related to incidental transfers.]

§ 5. INTERIM PROVISIONS

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Section related to interim provisions.]

* * * * *

REORGANIZATION PLAN NO. 4 OF 1970

Eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, as amended by Pub. L. 94-461, § 4(c)(1), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 95-219, § 3(a)(1), Dec. 28, 1977, 91 Stat. 1613.

* * * * *

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

* * * * *

SEC. 2. ESTABLISHMENT OF ADMINISTRATION

* * * * *

(e)(1) There shall be in the Administration a General Counsel and five Assistant Administrators, one of whom shall be the Assistant Administrator for Coastal Zone Management and one of whom shall be the Assistant Administrator for Fisheries. The General Counsel and each Assistant Administrator shall be appointed by the Secretary, subject to approval of the President, and shall be compensated at a rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(2) The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

(3) The Assistant Administrator for Coastal Zone Management shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(4) The Assistant Administrator for Fisheries shall be responsible for all matters related to living marine

resources which may arise in connection with the conduct of the functions of the Administration.

* * * * *

REORGANIZATION PLAN NO. 1 OF 1977

42 F.R. 56101, 91 Stat. 1633

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 15, 1977,[1] pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

EXECUTIVE OFFICE OF THE PRESIDENT

SECTION 1. REDESIGNATION OF DOMESTIC COUNCIL STAFF

The Domestic Council staff is hereby designated the Domestic Policy Staff and shall consist of such staff personnel as are determined by the President to be necessary to assure that the needs of the President for prompt and comprehensive advice are met with respect to matters of economic and domestic policy. The staff shall continue to be headed by an Executive Director who shall be an Assistant to the President, designated by the President, as provided in Section 203 of Reorganization Plan No. 2 of 1970 [set out in this Appendix]. The Executive Director shall perform such functions as the President may from time to time direct.

SEC. 2. ESTABLISHMENT OF AN OFFICE OF ADMINISTRATION

There is hereby established in the Executive Office of the President the Office of Administration which shall be headed by the President. There shall be a Director of the Office of Administration. The Director shall be appointed by the President and shall serve as chief administrative officer of the Office of Administration. The President is authorized to fix the compensation and duties of the Director.

The Office of Administration shall provide components of the Executive Office of the President with such administrative services as the President shall from time to time direct.

SEC. 3. ABOLITION OF COMPONENTS

The following components of the Executive Office of the President are hereby abolished:

A. The Domestic Council;

B. The Office of Drug Abuse Policy;

C. The Office of Telecommunications Policy; and

D. The Economic Opportunity Council.

SEC. 4. APPOINTMENT OF THE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION

There shall be in the Department of Commerce an Assistant Secretary for Communications and Information who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule [5 U.S.C. 5315].

SEC. 5. TRANSFERS OF FUNCTIONS

The following functions shall be transferred:

A. All functions vested in the Director of the Office of Science and Technology Policy and in the Office of Science and Technology Policy pursuant to sections 205(a)(2), 206 and 209 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282; 90 Stat. 459) [sections 6614(a)(2), 6615 and 6618 of Title 42, The Public Health and Welfare], are hereby transferred to the Director of the National Science Foundation. The Intergovernmental Science, Engineering, and Technology Advisory Panel, the President's Committee on Science and Technology, and the Federal Coordinating Council for Science, Engineering and Technology, established in accordance with the provisions of Titles II, III, IV of the National Science and Technology Policy, Organization, and Priorities Act of 1976 [sections 6611 et seq., 6631 et seq., and 6651 et seq. of Title 42], are hereby abolished, and their functions transferred to the President.

B. Those functions of the Office of Telecommunications Policy and of its Director relating to:

(1) the preparation of Presidential telecommunications policy options including, but not limited to those related to the procurement and management of Federal telecommunications systems, national security, and emergency matters; and

(2) disposition of appeals from assignments of radio frequencies to stations of the United States Government;

are hereby transferred to the President who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable. All other functions of the Office of Telecommunications Policy and of its Director are hereby transferred to the Secretary of Commerce who shall provide for the performance of such functions.

C. The functions of the Office of Drug Abuse Policy and its Director are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

D. The functions of the Domestic Council are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

E. Those functions of the Council on Environmental Quality and the Office of Environmental Quality relating to the evaluation provided for by Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577, 88 Stat. 1878) [section 5910 of Title 42], are hereby transferred to the Administrator of the Environmental Protection Agency.

F. Those functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat (Public Law 92-463, 86 Stat. 770, as amended by Public Law 94-409, 90 Stat. 1247) [see section 7 of the Federal Advisory Committee Act, Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in this Appendix] are hereby transferred to the Administrator of General Services.

G. The functions of the Economic Opportunity Council are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

SEC. 6. INCIDENTAL TRANSFERS

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

[1] As amended Sept. 15, 1977.

SEC 7. EFFECTIVE DATE

This Reorganization Plan shall become effective at such time or times on or before April 1, 1978, as the President shall specify, but no sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I herewith transmit my plan for the Reorganization of the Executive Office of the President (EOP), Reorganization Plan No. 1 of 1977. This plan is the first of a series I intend to submit under the reorganization authority vested in me by the Reorganization Act of 1977 (Public Law 95-17). It adheres to the purposes set forth in Section 901(a) of the Act [see section 901(a) of Title 5].

This plan in conjunction with the other steps I am taking will:

Eliminate seven of the seventeen units now within the EOP and modify the rest. There were 19 units when I took office; the President's Foreign Intelligence Advisory Board and the Economic Policy Board have already been abolished. Thus with this plan I will have eliminated nine of 19 EOP units.

Reduce EOP staffing by about 250 which includes the White House staff reduction of 134 or 28 percent which I have already ordered.

Improve efficiency by centralizing administrative functions; and

Improve the process by which information is provided for Presidential decisionmaking.

These recommendations arise from a careful, systematic study of the EOP. They are based on the premise that the EOP exists to serve the President and should be structured to meet his needs. They will reduce waste and cost while improving the service the President, and the nation, receive from the EOP.

The EOP now consists of the immediate White House Office, the Vice President's Office, the Office of Management and Budget, and fourteen other agencies. The EOP has a budget authority of about $80,000,000 and 1,712 full time employees.

The White House Office concentrates on close personal support including policy and political advice and administrative and operational services. The Office of the Vice President provides similar support to him. OMB's primary mission is to develop and implement the budget; it also carries out a number of management and reorganization activities.

Three EOP units have responsibility for policy development:

National Security Council.
Domestic Council.
Council on International Economic Policy.

The other 11 are more specialized offices that offer analysis and advice, help develop policy in certain areas, or carry out special projects. These are:

Council of Economic Advisers.
Council on Wage and Price Stability.
Office of the Special Representative for Trade Negotiations.
Council on Environmental Quality.
Office of Science and Technology Policy.
Office of Drug Abuse Policy.
Office of Telecommunications Policy.
Intelligence Oversight Board.
Federal Property Council.
Energy Resources Council.
Economic Opportunity Council.

To make the EOP more effective, four steps are necessary:

I. Strengthen management of policy issues.

II. Limit the EOP, wherever possible, to functions directly related to the President's work.

III. Centralize administrative services.

IV. Reduce size of White House and EOP staffs.

I. STRENGTHEN PROCESS MANAGEMENT OF POLICY ISSUES

Perhaps the most important function of the President's staff is to make sure he has the wide variety of views and facts he needs to make decisions. By building a more orderly system for collecting information and advice, the President can make sure that he will hear all the views he should—and hear them in time. To better insure that this happens, I am taking the following actions to:

Institute for domestic and economic issues, a system similar to the Presidential Review Memorandum process currently used for National Security issues.

Create a committee of Presidential advisers, chaired by the Vice President, to set priorities among issues and oversee their staffing.

Assure that Presidential decision memoranda on policy issues are coordinated with Cabinet and EOP advisers most involved with the issue.

Consolidate under the Staff Secretary the two current White House paper circulation systems.

Appoint a group of advisers to review the decisionmaking process periodically.

Give the Assistant to the President for Domestic Affairs and Policy clear responsibility for managing the way in which domestic and most economic policy issues are prepared for Presidential decision.

Assign follow-up responsibility for Presidential decisions as follows: immediate follow-up will be handled by the NSC or Domestic Policy Staff most directly involved in the issue; long term follow-up on selected issues will be handled by the Assistant to the President for Intergovernmental Relations.

These actions recognize that the White House and Executive Office staff must use their proximity to the President to insure that the full resources of the government and the public are brought to bear on Presidential decisions in a timely fashion. It is my purpose in instituting these changes to strengthen Cabinet participation in Presidential decisions.

II. RATIONALIZE EOP STRUCTURE BY LIMITING EOP, WHEREVER POSSIBLE, TO FUNCTIONS WHICH BEAR A CLOSE RELATIONSHIP TO THE WORK OF THE PRESIDENT

As the President's principal staff institution, there are several major things the EOP must do:

Provide day-to-day operational support (e. g. scheduling, appointments) and help the President communicate with the public, the Congress, and the press.

Manage the budget and coordinate Administration positions on matters before the Congress.

Manage the Presidential decisionmaking processes efficiently and fairly, and bring the President the widest possible range of opinions.

Help the President: plan and set priorities; monitor and evaluate progress toward achieving the President's objectives; understand and resolve major conflicts among line subordinates; manage crises, especially in national security matters.

In order to restructure the EOP around these basic functions, the functions of seven units should be discontinued or transferred, and ten units, including the White House Office, should be retained but modified.

Seven units should be discontinued or their functions transferred. These are:

1. Office of Drug Abuse Policy.
2. Office of Telecommunications Policy.
3. Council on International Economic Policy.
4. Federal Property Council.
5. Energy Resources Council.
6. Economic Opportunity Council.
7. Domestic Council.

The functions of the Office of Drug Abuse Policy (ODAP) can be performed by a smaller staff reporting to a Presidential adviser in the EOP. The Office itself will be discontinued.

Much of the work done by the Office of Telecommunications Policy (OTP) can be more effectively performed outside the EOP. It is important that the EOP have the capacity to resolve differences and that the President have immediate advice on telecommunications and information policy, especially on national security, emergency preparedness and privacy issues. This only requires a small staff within EOP. The Office of Management and Budget would take responsibility for Federal telecommunications procurement and management policy and arbitration of interagency disputes about frequency allocation. All other functions except developing Presidential policy options would be transferred to a new office within the Department of Commerce, headed by a new Assistant Secretary for Communications and Information, who will perform many of the functions previously performed by the head of the OTP.

I propose that the Economic Opportunity Council be discontinued; it is dormant and its only active function (preparation of the Catalogue of Federal Domestic Assistance) is being performed by OMB. Three other units are also inactive and should be discontinued: Council on International Economic Policy, the Federal Property Council, and the Energy Resources Council.

The Domestic Council should be abolished. It has rarely functioned as a Council, because it is too large and its membership too diverse to make decisions efficiently. Its functions have been performed entirely by its staff. This Domestic Policy Staff should report to the Assistant to the President for Domestic Affairs and Policy. Under the policy process system described earlier, they should manage the process which coordinates the making of domestic and most economic policy. They should work closely with the Cabinet departments and agencies to insure that the views of the Cabinet and agency heads are brought to the President before decisions are made.

The ten EOP units which will continue with some modification are:

1. White House Office.
2. Office of the Vice President.
3. Office of Management and Budget.
4. Council on Environmental Quality.
5. Council of Economic Advisers.
6. Office of Science and Technology Policy.
7. Office of the Special Representative for Trade Negotiations.
8. National Security Council.
9. Intelligence Oversight Board.
10. Council on Wage and Price Stability.

The operations of the Office of the Vice President reflect the combination of constitutional, statutory, and Presidentially assigned duties that make it unique among EOP units. Because his interests and assignments cover the same range as the President's, the Vice President requires a staff with expertise in diverse areas. Its basic functions should not be changed. However, I propose that certain support functions—involving accounting, personnel services, and supply—be transferred to a centralized EOP Administrative Unit.

The Office of Management and Budget would remain as a separate entity in the EOP, but some functional changes should be made. Four functions should be transferred from OMB to other parts of the government:

Administration to the new EOP Central Administrative Unit;

Executive Department/Labor Relations (except for Pay Agent, Executive Level Pools, and Legislative Analysis) to the Civil S rvice Commission;

Advisory Committee Management Secretariat to the General Services Administration;

Statistical Policy (except Forms Clearance) to the Department of Commerce.

I have asked the OMB to reorganize its management arm to emphasize major Presidential initiatives, such as reorganization, program evaluation, paperwork reduction, and regulatory reform.

The Council on Environmental Quality (CEQ) should remain in the EOP as an environmental adviser to the President. The CEQ's major purpose is to provide an independent assessment of our policies for improving the environment. Toward this end, it will analyze long term trends and conditions in the environment. It will advise OMB on the reorganization of natural resources functions within the Federal government. The Council will retain the functions it now has under NEPA and Executive Order No. 11514 with the exception of routine review of the adequacy of impact statements and the administrative aspects of their receipt and handling. The EPA will take over CEQ's evaluation responsibility under the Federal Nonnuclear Energy Research Development Act of 1974 [section 5901 et seq. of Title 42, The Public Health and Welfare]. The CEQ will continue to review and publish the Annual Report on Environmental Quality.

The strength of the Council of Economic Advisers (CEA) lies in its economic analysis of current policy choices. It also presents objective economic data, makes macroeconomic forecasts, and analyzes economic trends and their impact on the national economy. It will continue with a small reduction in staff.

The Office of Science and Technology Policy (OSTP) should retain those science, engineering, and technology functions which can be so useful in helping the President and his advisers make decisions about policy and budget issues. Instead of the Intergovernmental Science, Engineering, and Technology Advisory Panels, the President should rely on an intergovernmental relations working group, chaired by the Science Adviser. The Federal Coordinating Council on Science and Technology should operate as a sub-Cabinet working group chaired by the Science Adviser. The reorganization work of the President's Committee on Science and Technology would be part of the overall reorganization effort. The responsibility for preparing certain reports should be transferred to the National Science Foundation.

The proposal places manageable limits on OSTP's broad mandate while emphasizing functions that support the President.

The Office of the Special Representative for Trade Negotiations (STR) is now operating effectively and will be retained essentially as is. With the difficult negotiations now underway in Geneva, the benefits of transferring the STR to another agency are outweighed by the potential reduction in its effectiveness as an international negotiator.

The National Security Council (NSC) will be retained in its present form and its staff slightly reduced.

Intelligence Oversight Board (IOB) should be retained to insure that abuses of the past are not repeated and to emphasize Presidential concerns regarding intelligence issues.

The Council of Wage and Price Stability (COWPS) is a necessary weapon in the continuing fight against inflation and will be retained. To be sure that its work is closely coordinated with the economic analyses performed by the Council of Economic Advisers (CEA), COWPS should be directed by the Chairman of CEA.

III. CENTRALIZE ADMINISTRATIVE FUNCTIONS

About 380 (22 percent) of the full-time, permanent EOP personnel perform administrative support services in EOP units. Most EOP units besides the White House and OMB are too small to provide a full complement of administrative services. They depend on the White House, OMB, GSA, other federal departments, or several of these sources for many of these services. This approach is inefficient; the quality is uneven and the coordination poor. Some services are duplicated, others inconsistently distributed (excess capacity in some units and deficiencies in others), and most too costly.

I propose to combine administrative support operations into a Central Administrative Unit in EOP to

provide support in administrative services common to all EOP entities. It should be a separate EOP entity because of the need to assure equal access by all other units.

This consolidation will result in:

Saving of roughly 40 positions and about $1.1 million improved and more innovative services.

A focus for monitoring the efficiency and responsibility of administrative services.

A base for an effective EOP budget/planning system through which the President can manage an integrated EOP rather than a collection of disparate units.

The EOP has never before been organized as a single, unified entity serving the President. It is only by viewing it as a whole that we can improve efficiency through steps like the Central Administrative Unit.

IV. REDUCE THE SIZE OF WHITE HOUSE AND EOP STAFFS

I am reducing the White House staff by 28 percent, from the 485 I inherited from my predecessor to 351. This involves cuts in my policy and administrative staffs as well as transfers to the Central Administrative Unit.

I estimate that this plan and the other steps I am taking will reduce staff levels in the EOP by about 250, from 1,712 full-time permanent positions to about 1,460 and will save the taxpayers at least $6 million.

As in the rest of the government, I will be reluctant to add staff unless necessary to help me do my job better.

I ask that you support me in improving the operations of the Executive Office of the President by approving the attached reorganization plan.

In summary this plan would:

Abolish the Domestic Council and establish a Domestic Policy Staff.

Establish within the EOP a Central Administrative Unit.

Transfer certain functions of the Council on Environmental Quality to the President for redelegation.

Abolish the Office of Drug Abuse Policy and vest functions in the President for redelegation.

Abolish the Office of Telecommunications Policy and transfer functions to the Department of Commerce and to the President for redelegation.

Create an Assistant Secretary of Commerce for Communications and Information.

Vest some Office of Science and Technology Policy functions in the President for redelegation.

Abolish the Economic Opportunity Council and vest those functions in the President for redelegation.

Transfer the Committee Management Secretariat function of the Office of Management and Budget to the President for redelegation.

Make other incidental transfers attendant to those mentioned above.

Each of the changes set forth in the plan accompanying this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. I have taken care to determine that all functions abolished by the plan are done so only under statutory authority provided by Section 903(b) of Title 5 of the United States Code. The provisions in the plan for the appointment and pay of any head or officer of any agency have been found by me to be necessary.

As we continue our studies of other parts of the Executive Branch, we will find more ways to improve services in the EOP and elsewhere. This plan is only a beginning, but I am confident that it represents a major step toward a more efficient government that will serve the needs of the people and the President well.

JIMMY CARTER.

THE WHITE HOUSE, July 15, 1977.

REORGANIZATION PLAN NO. 2 OF 1977

42 F.R. 62461, 91 Stat. 1636

Prepared by the President and transmitted to the Senate and House of Representatives in Congress assembled, October 11, 1977[1], pursuant to the provisions of chapter 9 of title 5 of the United States Code.[2]

INTERNATIONAL COMMUNICATION AGENCY

SECTION 1. ESTABLISHMENT OF THE INTERNATIONAL COMMUNICATION AGENCY

There is hereby established in the executive branch an agency to be known as the International Communication Agency (the "Agency").

SEC. 2. DIRECTOR

The Agency shall be headed by a Director (the "Director"), who shall serve as the principal advisor to the President, the National Security Council, and the Secretary of State on the functions vested in the Director. The Director shall report to the President and the Secretary of State. Under the direction of the Secretary of State, the Director shall have primary responsibility within the Government for the exercise of the functions vested in the Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level II of the Executive Schedule [5 U.S.C. 5313].

SEC. 3. DEPUTY DIRECTOR

A Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act for, and exercise the powers of, the Director during the Director's absence or disability or during a vacancy in said office and, in addition, shall perform such duties and exercise such powers as the Director may from time to time prescribe. The Deputy Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level III of the Executive Schedule [5 U.S.C. 5314].

SEC. 4. ASSOCIATE DIRECTORS

The President, by and with the advice and consent of the Senate, may appoint four Associate Directors, who shall perform such duties and exercise such powers as the Director may from time to time prescribe. One Associate Director shall be known as the Associate Director for Educational and Cultural Affairs and one Associate Director shall be known as the Associate Director for Broadcasting. Each Associate Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule [5 U.S.C. 5315].

SEC. 5. PERFORMANCE OF FUNCTIONS

The Director may establish within the Agency bureaus, offices, divisions and other units. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee or unit of the Agency.

SEC. 6. NEGOTIATIONS

(a) Under the direction of the Secretary of State, the Director shall prepare for, manage and conduct negotiations with representatives of foreign states or international organizations on matters for which responsibility is vested in the Director or in the Agency.

(b) For the purpose of conducting such negotiations, or for the purpose of exercising any other authority vested in the Director or in the Agency, the Director may

[1] Actually transmitted Oct. 12, 1977.

[2] As amended Nov. 1, 1977 and Nov. 3, 1977.

(1) consult and communicate with or direct the consultation and communication with representatives of other nations or of international organizations; and

(2) communicate in the name of the Secretary of State with diplomatic representatives of the United States in this country and abroad.

SEC. 7. TRANSFER OF FUNCTIONS

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431-1479), except to the extent that any function in sections 302, 401, or 602 [sections 1452, 1456, or 1467 of Title 22, Foreign Relations and Intercourse] is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108 [sections 2452(b)(6), (b)(10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a), 2458 of Title 22]; (B) to the extent that such functions were assigned to the Secretary of Health, Education and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f) [2454(b), 2455(d)(2), (f), 2456(d), (f) of Title 22]; and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c) [2456(b), (c) of Title 22].

(3) Public Law 90-494 (22 U.S.C. 929-932, 1221-1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency.

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93-168 [Nov. 29, 1973, 87 Stat. 689];

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorization Act, Fiscal Year 1978, Public Law 95-105, 91 Stat. 844 [Aug. 17, 1977]; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c. 138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)), to the extent that such functions are vested in the Secretary of State;

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89-665, as amended by section 201(5) of Public Law 94-422 (16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95-86 (headed "UNITED STATES INFORMATION AGENCY, SALARIES AND EXPENSES"), 91 Stat. 440-41 [Aug. 2, 1977];

(17) The twentieth unnumbered paragraph of title I of Public Law 95-86 (headed "CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST"), 91 Stat. 424;

(18) Sections 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(1)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c. 301, 63 Stat. 408 (22 U.S.C. 2681-2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

(c) The Director shall insure that the scholarly integrity and nonpolitical character of educational and cultural exchange activities vested in the Director are maintained.

SEC. 8. ESTABLISHMENT OF THE UNITED STATES ADVISORY COMMISSION ON INTERNATIONAL COMMUNICATION, CULTURAL AND EDUCATIONAL AFFAIRS

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from the cross section of educational, communications, cultural, scientific, technical, public service, labor and business and professional backgrounds. Not more than four members shall be from any one political party. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466-1468, 1471(6)), and under sections 106(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency. The Commission's reports to the Congress shall include assessments of the

degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the Director have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO.

SEC. 9. ABOLITIONS AND SUPERSESSIONS

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c. 143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315(22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466-1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c. 841, 70 Stat. 890 (22 U.S.C. 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

SEC. 10. OTHER TRANSFERS

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, and offices abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SEC. 11. EFFECTIVE DATE

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105) [Aug. 17, 1977, 91 Stat. 857], which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be known as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the Government for the conduct of such activities. The Director, the Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semiannual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Educational Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this Plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, October 11, 1977.

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TITLE 7—AGRICULTURE

Chap.		Sec.
55A.	Department of Agriculture Advisory Committees [New]	2281
64.	Agricultural Research, Extension, and Teaching [New]	3101
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CHAPTER 2—COTTON STANDARDS

Chapter Referred to in Other Sections

This chapter is referred to in section 15b of this title; title 31 section 725d.

CHAPTER 3—GRAIN STANDARDS

§ 74. Congressional findings and declaration of policy

Effective Date of 1976 Amendment

Section 27 of Pub. L. 94-582, as amended by Pub. L. 95-113, title XVI, §§ 1602(d), 1605(b), 1607(b), 1608, Sept. 29, 1977, 91 Stat. 1025, 1030, 1031, provided that: "This Act [see Short Title of 1976 Amendment note set out under section 71 of this title] shall become effective thirty days after enactment hereof [Oct. 21, 1976]; and thereafter no State or other agency or person shall provide official inspection or official weighing or supervision of weighing under the United States Grain Standards Act as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title], at an export port location without a delegation of authority or other authorization under such amended Act, and no agency or person shall provide official inspection service or official weighing or supervision of weighing under such amended Act in any other area without a designation or other authorization under such amended Act, except that any agency or person then providing such service in any area may continue to operate in that area without a delegation or designation or other authorization under such Act but shall be subject to all provisions of the United States Grain Standard Act [this chapter] and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

"(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title]; or

"(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act [this chapter] in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain: *Provided*, That the Administrator may allow such affected agency or person to continue to operate in that area if the Administrator determines that such continued operations are necessary or desirable in carrying out the requirements of this Act: *Provided further*, That the Administrator shall, within 30 days after making such determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing the factual bases for such determination; or

"(3) with respect to export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

"(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title], to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act [Oct. 21, 1976], at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended [this section]."

Section Referred to in Other Sections

This section is referred to in sections 79, 79a, 86, 87e, 87f-2 of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

[*See main edition for text of (a) to (f)*]

(g) the term "grain" means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

[*See main edition for text of (h)*]

(i) The term "official inspection" means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other

criteria approved by the Administrator under this chapter (the term "officially inspected" shall be construed accordingly);

[*See main edition for text of (j) to (l)*]

(m) the term "official agency" means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing);

[*See main edition for text of (n) to (w)*]

(x) The term "official weighing" means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms "officially weigh" and "officially weighed" shall be construed accordingly);

(y) the term "supervision of weighing" means such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance;

[*See main edition for text of (z)*]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(a), 1606(a), 91 Stat. 1026, 1030.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-113, § 1604(a)(1), substituted "sorghum" for "grain sorghum".

Subsec. (i). Pub. L. 95-113, § 1606(a), struck out reference to the determination of the quantity of sacks of grain upon the request of the interested party applying for inspection.

Subsec. (m). Pub. L. 95-113, § 1604(a)(2), substituted "or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing)" for "or subsection (b) of section 79a of this title for the conduct of supervision of weighing".

Subsec. (x). Pub. L. 95-113, § 1604(a)(3), substituted "under standards provided for in this chapter" for "under standards provided in this chapter".

Subsec. (y). Pub. L. 95-113, § 1604(a)(4), substituted "such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance" for "the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 75a. Federal Grain Inspection Service; Administrator

There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this chapter and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this chapter. The Secretary may delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture. Notwithstanding any other provision of law, the Secretary is authorized to appoint four individuals to positions at grade 16 of the General Schedule, in the Service.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(b), 91 Stat. 1026.)

REFERENCES IN TEXT

Grade 16 of the General Schedule, referred to in text, is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1977—Pub. L. 95-113 added provisions authorizing the Secretary to delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture and authorizing the Secretary to appoint four individuals to positions at grade 16 of the General Schedule in the Service.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

TEMPORARY ADVISORY COMMITTEE

Section 1603 of Pub. L. 95-113 provided that:

"(a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary of Agriculture shall establish a temporary advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service with respect to the implementation of the United States Grain Standards Act of 1976 [see Short Title of 1976 Amendment note under section 71 of this title]. The advisory committee shall consist of not more than twelve members,

appointed by the Secretary, representing the interests of grain producers, consumers, and all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this Act [Sept. 29, 1977].

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act [Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770," set out in the Appendix to Title 5, Government Organization and Employees].

"(c) The Administrator of the Federal Grain Inspection Service shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

"(e) The advisory committee shall terminate eighteen months after the date of enactment of this Act [Sept. 29, 1977].

"(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section."

§ 76. Standards and procedures; establishment, amendment, and revocation

(a) The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

[*See main edition for text of* (b)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(c), 91 Stat. 1027.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "sorghum" for "grain sorghum", "standards or procedures" for "standards", "weight certification and controls" for "weight certification procedures and controls", and "calibration and maintenance, for grain" for "calibration and maintenance for grain".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Administrator

(a) Whenever standards or procedures are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards or procedures, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Administrator may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further*, That the Administrator shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment;

(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedures; and

[*See main edition for text of* (3); (b)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1606(b), 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "standards or procedures" for "standards" wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without addi-

tional information as to specified factors: *Provided,* That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

[*See main edition for text of* (*b*)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1606(c), 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "criteria" for "factor information".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 79. Official inspection

[*See main edition for text of* (*a*)]

(b) Inspections made pursuant to request of interested persons

The Administrator is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 76 of this title, or, upon request of the interested person, under other criteria approved by the Administrator for determining the kind, class, quality, or condition of grain, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 74 of this title.

[*See main edition for text of* (*c*) *and* (*d*)]

(e) Official inspection at export port locations; delegation of authority to State agencies

[*See main edition for text of* (*1*)]

(2) If the Administrator determines pursuant to paragraph (3) of this subsection that a State agency which was performing official inspection at an export port location under this chapter on July 1, 1976, is qualified to perform official inspection and meets the criteria in subsection (f)(1)(A) of this section, the Administrator may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing.

[*See main edition for text of* (*3*)]

(4) The Administrator may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Administrator determines will best meet the objectives of this chapter.

(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections

[*See main edition for text of* (*1*)]

(2) Not more than one official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

(3) Except as authorized by the Administrator, no official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this chapter any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Administrator at the time such sample is drawn.

(4) No State or local governmental agency or person shall provide any official inspection for the purposes of this chapter except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 84(a) of this title.

(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies

(1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsection (f) of this section.

[*See main edition for text of* (*2*) *and* (*3*); (*h*)]

(i) Official inspections in Canadian ports

The Administrator is authorized to cause official inspection under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection. All or specified functions of such inspections shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

(j) Fees

The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated cost of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this chapter.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1602(a), 1604(d), 1606(d), 91 Stat. 1025, 1027, 1030.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-113, § 1606(d), struck out reference to a determination of the quantity of sacks of grain.

Subsec. (e). Pub. L. 95-113, § 1604(d)(1), designated as par. (4) provisions, formerly forming a part of par. (2), authorizing the Administrator to provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States be inspected in the manner provided in this subsection or subsec. (f) of this section, as the Administrator determines best meets the objectives of this chapter.

Subsec. (f)(2). Pub. L. 95-113, § 1604(d)(2), substituted "official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter" for "official agency for carrying out the provisions of this chapter", struck out ", but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968" following "section 74 of this title", and redesignated other existing provisions as subsec. (f)(3) and (4).

Subsec. (f)(3). Pub. L. 95-113, § 1604(d)(2)(B), (C), redesignated a portion of existing subsec. (f)(2) as (f)(3) and in subsec. (f)(3) as so redesignated substituted "Except as authorized by the Administrator, no" for "No".

Subsec. (f)(4). Pub. L. 95-113, § 1604(d)(2)(D), redesignated a portion of existing subsec. (f)(2) as subsec. (f)(4).

Subsec. (g)(1). Pub. L. 95-113, § 1604(d)(3), substituted "prescribed in subsection (f)" for "prescribed in subsections (e) and (f)".

Subsec. (i). Pub. L. 95-113, § 1604(d)(4), added provision that all or specified functions of the inspections be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (j). Pub. L. 95-113, § 1602(a), revised the provisions relating to fees so as to remove requirement that field supervision of inspection be supported by fees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

INVESTIGATIONS AND STUDIES OF GRAIN INSPECTION AND WEIGHING IN INTERIOR OF UNITED STATES; COMPLETION OF STUDIES AND SUBMISSION OF REPORTS BY MAY 20, 1979, AND NOV. 20, 1979, RESPECTIVELY

Section 8(b) of Pub. L. 94-582, as amended by Pub. L. 95-113, title XVI, §§ 1605(a), 1607(a), Sept. 29, 1977, 91 Stat. 1029, 1031, provided that:

* * * * *

"(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies (which may include the application of statistical tolerances for expected variations), based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

"(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Comptroller General not later than thirty months after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title].

"(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act [this chapter] to such Committees not later than three years after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 79a, 79b, 84, 87b, 87f-1, 87h of this title.

§ 79a. Weighing authority

(a) Official weighing in accordance with prescribed regulations

The Administrator shall cause official weighing under standards or procedures provided for in section 76 of this title to be made of all grain required to be officially weighed as provided in section 77 of this title, in accordance with such regulations as the Administrator may prescribe.

(b) Official weighing or supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export elevators at export port locations

The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures provided in section 76 of this title to be performed at any grain eleva-

tor, warehouse, or other storage or handling facility located other than at export elevators at export port locations at which official inspection is provided pursuant to the provisions of this chapter, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided

[*See main edition for text of (1)*]

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official weighing or supervision of weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform official weighing or supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 79 of this title, except that where the term "official inspection" is used in such section it shall be deemed to refer to "official weighing" or "supervision of weighing" under this section. If such agency or person is not available to perform such weighing services, or the Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export port locations official weighing or supervision of weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State or local governmental agency, or any person to perform official weighing or supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 79 of this title, except that where the term "official inspection" is used in such section it shall be deemed to refer to "supervision of weighing" under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 79 of this title.

(d) Official weighing in Canadian ports

The Administrator is authorized to cause official weighing under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing. All or specified functions of such weighing shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities

The Administrator is further authorized to cause official weighing or supervision of weighing under standards or procedures provided for in section 76 of this title to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as he may prescribe.

(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements

No official weighing or supervision of weighing shall be provided for the purposes of this chapter at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Administrator that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Administrator; (2) will permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this chapter; (3) when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales in accordance with the regulations of the Administrator and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this chapter; and (5) will comply with all other requirements of this chapter and the regulations hereunder.

(g) Official certificates as evidence

Official certificates setting out the results of official weighing or supervision of weighing, issued and not cancelled under this chapter, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

[*See main edition for text of (h)*]

(i) Unauthorized weighing prohibited

No State or local governmental agency or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this chapter except in accordance with the provi-

sions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section. Not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

[*See main edition for text of (j) and (k)*]

(l) Fees

The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable, cover the costs of the Service incident to its performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this chapter.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1602(b), 1604(e), 1606(e), 91 Stat. 1025, 1027, 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1606(e), substituted "standards or procedures" for "standards".

Subsec. (b). Pub. L. 95-113, §§ 1604(e)(1), 1606(e), substituted "The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures" for "The Administrator is authorized to cause supervision of weighing under standards" and "other than at export elevators at export port locations" for "other than at export port locations".

Subsec. (c)(2). Pub. L. 95-113, § 1604(e)(2), made technical amendments to conform subsec. (c)(2) to the increased authority granted in subsec. (b) to cause official weighing as well as supervision of weighing at interior inspection points and corrected a typographical error in which "number" had been erroneously used for "under" in the text as originally enacted by Pub. L. 94-582.

Subsec. (d). Pub. L. 95-113, § 1604(e)(3), added requirement that all or specified functions of Canadian weighing be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (e). Pub. L. 95-113, §§ 1604(e)(4), 1606(e), substituted "under standards or procedures provided" for "under standards provided" and struck out provisions which had required that the weighing service not be provided for periods of less than a year, that the fees therefor be set separately from the fees provided for in subsec. (*l*), and that they be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing the service.

Subsec. (f)(2). Pub. L. 95-113, § 1604(e)(5)(A), substituted "permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator" for "employ only competent persons with a reputation for honesty and integrity".

Subsec. (f)(3). Pub. L. 95-113, § 1604(e)(5)(B), substituted "when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales" for "when weighing is to be done by employees of the facility, will require employees to operate the scales".

Subsec. (g). Pub. L. 95-113, § 1604(e)(6), substituted "official weighing or supervision of weighing" for "official weighing".

Subsec. (i). Pub. L. 95-113, § 1604(e)(7), (8), substituted "No State or local governmental agency" for "No State" and added provision that not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

Subsec. (*l*). Pub. L. 95-113, § 1602(b), revised the provisions relating to fees so as to remove requirement that field supervision of weighing be supported by fees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 79b. Testing of equipment

(a) Random and periodic testing at least annually; fees

The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this chapter, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment. Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of such testing by employees of the Service. Such fees shall be deposited into the fund created by section 79(j) of this title.

[*See main edition for text of (b)*]

(c) Use of non-approved equipment prohibited

Notwithstanding any other provision of law, no person shall use for the purposes of this chapter any such equipment not approved by the Administrator.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(f), 91 Stat. 1028.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1604(f)(1), (2), substituted "and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators" for "and weighing of grain located at all grain elevators" and added provisions that regulations provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of testing by employees of the Service and that the fees be deposited into the fund created by section 79(j) of this title.

Subsec. (c). Pub. L. 95-113, § 1604(f)(3), substituted "shall use for the purposes of this chapter" for "shall use".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 84. Licensing of inspectors

(a) Authorization

The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing, other than appeal weighing, of grain in the United States; (2) to authorize any competent employee of the Service to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter; (3) to contract with any person or governmental agency to perform specified sampling, laboratory testing, and similar technical functions and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter. No person shall perform any official inspection or weighing function for purposes of this chapter unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this chapter.

[*See main edition for text of (b) to (d)*]

(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service

The Administrator may hire (without regard to the provisions of title 5 governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on October 21, 1976) to perform functions of official inspection under this chapter and as personnel to perform supervisory weighing or official weighing functions any individual who, on October 21, 1976, was performing similar functions: *Provided*, That the Administrator determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned. The Administrator may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

(f) Periodic rotation of personnel

The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection and weighing system provided by this chapter.

[*See main edition for text of (g)*]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(g), 1606(f), 91 Stat. 1028, 1030.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-113, § 1604(g)(1)(A), substituted "weighing, other than appeal weighing, of grain" for "weighing of grain".

Subsec. (a)(2)(B). Pub. L. 95-113, § 1604(g)(1)(B), substituted "weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports" for "weighing of grain".

Subsec. (a)(3). Pub. L. 95-113, § 1604(g)(1)(C), substituted "any person or governmental agency specified sampling, laboratory testing, and similar technical functions" for "any person to perform specified sampling and laboratory testing".

Subsec. (e). Pub. L. 95-113, § 1604(g)(2), added provisions authorizing the Administrator to compensate the personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

Subsec. (f). Pub. L. 95-113, § 1606(f), substituted "official inspection and weighing system" for "official inspection system".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87. Conflicts of interest

[*See main edition for text of (a)*]

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

[*See main edition for text of (1) and (2)*]

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Administrator under such section to perform official weighing or supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term "use of official inspection service" shall be

deemed to refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Administrator shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Administrator may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Administrator makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Administrator shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies or State agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency or State agency delegated authority under this chapter from engaging in the business of weighing grain.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(h), 1606(g), 91 Stat. 1028, 1030.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-113, § 1604(h)(1), substituted "to perform official weighing or supervision of weighing" for "to perform supervision of weighing".

Subsec. (b)(4). Pub. L. 95-113, § 1606(g), substituted "official weighing or supervision of weighing" for "official weighing".

Subsec. (b)(5). Pub. L. 95-113, § 1604(h)(2), substituted "to perform official inspection or perform official weighing or supervision of weighing except that" for "to perform official inspection or perform supervision of weighing except that" and "member, director, officer" for "member, officer".

Subsec. (c). Pub. L. 95-113, § 1604(h)(3), inserted "or State agency delegated authority under this chapter" following "official agency".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87a. Records

(a) Samples of grain

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or Administrator or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Administrator shall, from time to time, perform audits of official agencies and State agencies delegated authority of this chapter in such manner and at such periodic intervals as he deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter, and permit any authorized representative of the Secretary or the Administrator, at all reasonable times, to have access to, and to

copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1601, 1604(i), 91 Stat. 1024, 1029.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1604(i)(1), inserted ", every State agency delegated authority under this chapter," following "official agency".

Subsec. (b). Pub. L. 95-113, § 1604(i)(1), inserted ", every State agency delegated authority under this chapter," following "official agency".

Subsec. (c). Pub. L. 95-113, § 1604(i)(1), (2), inserted ", every State delegated authority under this chapter," following "official agency" and corrected a typographical error in Pub. L. 94-582 under which "delegate authority of this chapter" had been erroneously used instead of "delegated authority under this chapter".

Subsec. (d). Pub. L. 95-113, § 1601, substituted "shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter" for "shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain,".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87b. Prohibited acts

(a) No person shall—

[*See main edition for text of (1) to (5)*]

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this chapter, or that any weighing service under this chapter has been performed with respect to grain;

[*See main edition for text of (7) to (10)*]

(11) violate any provision of section 77; 78; 79(f)(2), (3), or (4); 79a; 79b(c); 84; 87; 87a; or 87f-1 of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator.

[*See main edition for text of (b) and (c)*]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(j), 1606(h), 91 Stat. 1029, 1030.)

AMENDMENTS

1977—Subsec. (a)(6). Pub. L. 95-113, §§ 1604(j)(1), 1606(h), substituted "or condition" for "condition, or quantity" and inserted ", or that any weighing service under this chapter has been performed with respect to grain" following "official inspection under this chapter".

Subsec. (a)(11). Pub. L. 95-113, § 1604(j)(2), added references to sections 79(f)(3) and (4) and 87f-1 of this title.

Subsec. (a)(12). Pub. L. 95-113, § 1604(j)(3), substituted "weighing equipment" for "testing equipment".

Subsec. (a)(13). Pub. L. 95-113, § 1604(j)(4), substituted "financial interest in grain" for "financial interest in the grain" and "loading of the grain" for "loading of grain".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87e. General authorities

(a) Authority of Administrator

The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Administrator deems necessary to effectuate the purposes or provisions of this chapter. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Administrator is authorized to investigate reports or complaints of discrepancies and

abuses in the official inspection and weighing of grain under this chapter. The Administrator shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter, and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.

[*See main edition for text of* (c) *to* (e)]

(f) Adequate personnel to meet inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this chapter.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(k), 1606(i), 91 Stat. 1029, 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1604(k)(1), rearranged existing provisions and added references to the installation of handling and weighing equipment and to warehouses and other grain storage or handling facilities.

Subsec. (b). Pub. L. 95-113, § 1606(i), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

Subsec. (f). Pub. L. 95-113, § 1604(k)(2), struck out "additional" preceding "inspection and weighing requirements".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87f-1. Registration requirements

[*See main edition for text of* (a)]

(b) Required information

(1) All persons required to register under this chapter shall submit the following information to the Administrator:

[*See main edition for text of* (2) *and* (3); (c) *to* (e)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(*l*), 91 Stat. 1029.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-113 substituted "All persons required to register" for "All persons registered" in the provisions preceding par. (A).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87h of this title.

§ 87f-2. Reporting requirements

(a) General requirements; annual report to Congressional Committees

The Administrator shall submit a report to the committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees regarding the effectiveness of the official inspection and weighing system under this chapter for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 74 of this title.

(b) Notification of Congressional Committees of complaints regarding faulty grain deliveries and cancellation of export contracts

The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) notwithstanding the provisions of section 612c-3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

(c) Submission to Congressional Committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain

On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(m), 1606(i),(j), 91 Stat. 1029, 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1606(i), (j), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry" and "inspection and weighing" for "inspection".

Subsec. (b). Pub. L. 95-113, §§ 1604(m), 1606(i), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry" in the provisions preceding cl. (1) and, in cl. (2) substituted "notwithstanding the provisions of section 612c-3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation" for "within thirty days after receipt by the Administrator or the Secretary of the cancellation".

Subsec. (c). Pub. L. 95-113, § 1606(i), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87h. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for research and development as provided in section 87e of this title; monitoring in foreign ports grain officially inspected and officially weighed under this chapter; development and issuance of rules, regulations, and instructions; improvement of official standards for grain, improvement of inspection and weighing procedures and equipment, and other activities authorized by section 76 of this title; Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain; the purchase or lease of any buildings, other facilities, or equipment necessary to carry out the provisions of this chapter; and any other expenses necessary to carry out the provisions of this chapter to the extent that financing is not obtained from the fees and sales of samples as provided for in sections 79, 79a, and 87f-1 of this title.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1602(c), 1604(n), 91 Stat. 1025, 1029.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain" for "those Federal administrative and supervisory costs incurred within the Service's Washington office or not directly related to the official inspection or the provision of weighing services for grain" and renumbered this section as section 19 of the United States Grain Standards Act, thereby correcting an error in the 1976 amendment of this section by Pub. L. 94-582 under which this section had inadvertantly been renumbered from section 19 of the United States Grain Standards Act to section 21 thereof.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 6—INSECTICIDES AND ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 15 sections 1261, 1459, 2052, 2602; title 21 sections 321, 346a; title 42 section 6905.

§ 136w. Authority of Administrator

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136d, 136j, 137s of this title; title 42 section 4365.

CHAPTER 9—PACKERS AND STOCKYARDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 sections 45, 1607, 1681s, 1691c, 1692l; title 28 section 2342.

§ 226. Powers of Interstate Commerce Commission unaffected

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 1607, 1681s, 1691c, 1692l.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture; reports

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 45, 1607, 1681s, 1691c, 1692l.

CHAPTER 11—HONEYBEES

§ 284. Eradication and control of undesirable species and subspecies

INDEMNIFICATION FOR BEEKEEPERS

Pub. L. 91-524, title VIII, § 804, Nov. 30, 1970, 84 Stat. 1382, as amended by Pub. L. 93-86, § 1(27)(A), Aug. 10, 1973, 87 Stat. 237; Pub. L. 95-113, title II, § 207, Sept. 29, 1977, 91 Stat. 921, provided that:

* * * * *

"(f) The provisions of this section shall not be in effect after September 30, 1981."

CHAPTER 13—AGRICULTURAL AND MECHANICAL COLLEGES

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 322, 323, 329, 331, 341, 361a, 390b, 2664, 3103 of this title; title 16 section 582a-1; title 22 section 2220a; title 42 sections 1788, 1961a; title 43 section 179.

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 331, 341, 390b, 390c, 2664, 3103, 3221, 3222, 3261 of this title; title 22 section 2220a; title 42 section 1788; title 43 section 179.

§ 329. Additional appropriation for agricultural colleges

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3152 of this title.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

§ 331. Retirement of land-grant college employees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361d, 3195, 3221, 3222 of this title.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 418, 2664, 3103, 3221 of this title; title 20 section 1010; title 39 section 3202.

§ 341. Cooperative extension work by colleges

In order to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture, uses of solar energy with respect to agriculture, and home economics, and to encourage the application of the same, there may be continued or inaugurated in connection with the college or colleges in each State, Territory, or possession, now receiving, or which may hereafter receive, the benefits of subchapters I and II of this chapter, agricultural extension work which shall be carried on in cooperation with the United States Department of Agriculture: *Provided*, That in any State, Territory, or possession in which two or more such colleges have been or hereafter may be established, the appropriations hereinafter made to such State, Territory, or possession shall be administered by such college or colleges as the legislature of such State, Territory, or possession may direct. For the purposes of this subchapter, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1447(1), (2), 91 Stat. 1011.)

REFERENCES IN TEXT

The Federal Non-Nuclear Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 added reference to the uses of solar energy with respect to agriculture and added definition of "solar energy".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture

Cooperative agricultural extension work shall consist of the giving of instruction and practical demonstrations in agriculture, uses of solar energy with respect to agriculture, and home economics and subjects relating thereto to persons not attending or resident in said colleges in the several communities, and imparting information on said subjects through demonstrations, publications, and otherwise and for the necessary printing and distribution of information in connection with the foregoing; and this work shall be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the State agricultural college or colleges or Territory or possession receiving the benefits of this subchapter.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1447(3), 91 Stat. 1011.)

AMENDMENTS

1977—Pub. L. 95-113 added reference to uses of solar energy with respect to agriculture.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 343. Appropriations; distribution; allotment and apportionment; Federal Extension Service

[*See main edition for text of (a) to (d)*]

(e) Insofar as the provisions of subsections (b) and (c) of this section, which require or permit Congress to require matching of Federal funds, apply to the Virgin Islands of the United States and Guam, such provisions shall be deemed to have been satisfied, for the fiscal years ending September 30, 1978, and September 30, 1979, only, if the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in such years equal the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in the fiscal year ending September 30, 1977.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1465, 91 Stat. 1018.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-113 added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3175, 3221 of this title.

CHAPTER 14—AGRICULTURAL EXPERIMENT STATIONS

SUBCHAPTER I—GENERAL PROVISIONS

SECTIONS REFERRED TO IN OTHER SECTIONS

Sections 361a to 361i, commonly known as the Hatch Act of 1887, are referred to in sections 384, 390b, 418, 450i, 2242, 2664, 3103, 3311 of this title; title 16 section 582a-1.

§ 361c. Authorization of appropriations and allotments of grants

[*See main edition for text of (a) and (b)*]

(c) Allotment of additional sums

Any sums made available by the Congress in addition to those provided for in subsection (b) of this section for State agricultural experiment station work shall be distributed as follows:

[*See main edition for text of (1) to (3)*]

4. Repealed. Pub. L. 95-113, title XIV, § 1466(a), Sept. 29, 1977, 91 Stat. 1018.

5. Three per centum shall be available to the Secretary of Agriculture for administration of sections 361a to 361i of this title. These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

[*See main edition for text of (d) to (f)*]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1466, 91 Stat. 1018.)

AMENDMENTS

1977—Subsec. (c)(4). Pub. L. 95-113, § 1466(a), struck out subsec. (c)(4) which had provided that not less than 20 per centum of any sums appropriated pursuant to subsec. (c) for distribution to States be used for conducting marketing research projects approved by the Department of Agriculture.

Subsec. (c)(5). Pub. L. 95-113, § 1466(b), added provision authorizing the use of administrative funds for the transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390c, 3222 of this title.

SUBCHAPTER III—RESEARCH FACILITIES

§ 390. Congressional declaration of policy

It is declared to be the policy of the Congress to continue its support of agricultural research at eligible institutions through Federal-grant funds, to help finance physical facilities as required for the effective conduct of an adequate research program.

(As amended Pub. L. 95-113, title XIV, § 1416(3), Sept. 29, 1977, 91 Stat. 996.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "eligible institutions" for "the State agricultural experiment stations" and struck out "on a matching basis," following "Federal-grant funds".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 390a. Congressional declaration of purpose

The purpose of this subchapter is to assist eligible institutions in the construction, acquisition, and remodeling of buildings, laboratories, and other capital facilities (including the acquisition of fixtures and equipment which are to become a part of such buildings) which are necessary to more effectively conduct research in agriculture and sciences related thereto through means of grants from the Federal Government.

(As amended Pub. L. 95-113, title XIV, § 1416(3), Sept. 29, 1977, 91 Stat. 996.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "eligible institutions" for "the State agricultural experiment stations".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390c of this title.

§ 390b. Definitions

As used in sections 390a to 390j, inclusive, of this title—

[*See main edition for text of (1)*]

(2) the term "eligible institution" means a department established under provisions of the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), and under the direction of a college or university established in any State in accordance with the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), a department otherwise established pursuant to standards prescribed by any State the purpose of which is to conduct agricultural research, the Connecticut Agricultural Experiment Station at New Haven, Connecticut, the Ohio Agricultural Experiment Station at Wooster, Ohio, and those colleges, universities, and other legal entities in each State now receiving, or which may hereafter receive, benefits under the Act of August 30, 1890 (26 Stat. 417-419,

as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, or the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7); and

[*See main edition for text of* (3)]

(As amended Pub. L. 95-113, title XIV, § 1416(1), Sept. 29, 1977, 91 Stat. 994.)

REFERENCES IN TEXT

The Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), referred to in par. (2), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

The Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), referred to in par. (2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a-582a-1-582a-7), referred to in par. (2), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1977—Par. (2). Pub. L. 95-113 substituted a definition of "eligible institution" for a definition of "State agricultural experiment station".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 390c. Administration

(a) Authorization of appropriations

There are authorized to be appropriated for allocation to eligible institutions under this subchapter to be used for the purpose set out in section 390a of this title, $15,000,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, $23,000,000 for the fiscal year ending September 30, 1980, $27,000,000 for the fiscal year ending September 30, 1981, and $31,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(b) Apportionment of funds

(1) The first $4,000,000 appropriated for research facilities pursuant to this section for any fiscal year shall be apportioned equally among eligible institutions.

(2) Any amount in excess of $4,000,000 appropriated under this section for any fiscal year shall be apportioned as follows: Each eligible institution shall be entitled to an amount which bears the same ratio to the total amount of funds being allocated in such fiscal year under this paragraph as the amount received by such institution in the preceding fiscal year bears to the total amount received by all eligible institutions in such preceding fiscal year. The amount received by eligible institutions in the preceding fiscal year shall be determined on the basis of funds received under section 361c of this title, section 582a-2 of title 16, and—with respect to institutions receiving benefits under the Act of August 30, 1890 [7 U.S.C. 321 et seq.], including Tuskegee Institute—on the basis of funds received under section 450i of this title, during the fiscal years ending September 30, 1977, and September 30, 1978, and on the basis of funds received under section 3222 of this title in subsequent years.

(c) Rules and regulations

It shall be the duty and responsibility of the Secretary to administer the provisions of this subchapter under such rules and regulations as the Secretary may prescribe as necessary therefor.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 994.)

REFERENCES IN TEXT

The Act of August 30, 1890, referred to in subsec. (b)(2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see short title note set out under section 321 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted provisions authorizing the appropriation of specific sums for each fiscal year through the end of the fiscal year ending Sept. 30, 1982, for provisions that had simply authorized the appropriation of such funds "as the Congress deems advisable".

Subsec. (b). Pub. L. 95-113 revised the formula under which appropriated funds will be apportioned by replacing a formula which had directed that one-third of the funds be allotted equally among the States, with the remaining two-thirds allotted according to a fixed formula.

Subsec. (c). Pub. L. 95-113 substituted "this subchapter" for "this section" and "as the Secretary may prescribe" for "as he may prescribe".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390d, 390h of this title.

§ 390d. Eligibility for payments; facility proposals

As a condition for receiving funds apportioned under section 390c of this title, each eli-

gible institution shall submit, in such form as the Secretary may require, specific proposals for planning, acquisition, construction, repair, rehabilitation, renovation, or remodeling of buildings, laboratories, and other capital facilities including the acquisition of fixtures and equipment, including scientific instrumentation, which are to become part of such buildings. In a State having more than one eligible institution the Secretary shall devise procedures to insure that the facility proposals of the eligible institutions in such State provide for a coordinated food and agricultural research program among eligible institutions in such State.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 added planning, repair, rehabilitation, renovation, and remodeling to the enumeration of activities covered by the specific proposals submitted to the Secretary and added provisions directing the Secretary to devise procedures to be used for the coordination of programs among eligible institutions in States having more than one eligible institution.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390e. Continuing availability of unused allotments

Any unused portion of the allotment to any eligible institution for any fiscal year shall remain available at the option of such institution for payment to such institution for a period of not more than five fiscal years following the fiscal year in which such allotment is first made available.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 struck out requirement that the States making matching funds available in order to qualify for Federal funds and, in the remaining provisions relating to the continuing availability of unused appropriated funds, substituted "allotment to any eligible institution" for "allotment of any State" and "at the option of such institution for payment to such institution for a period of not more than five fiscal years following" for ", at the option of such State, for payment to such State for a period of not more than two fiscal years following".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390f. Multiple-purpose physical facilities; fund support basis

With respect to multiple-purpose physical facilities, the segment or portion thereof which is to be utilized for food and agricultural research shall be the basis for determination of fund support under this subchapter.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 added reference to food research.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390g. Amount of allocation; ascertainment and notification

For each fiscal year that funds are made available for allocation the Secretary shall ascertain, at the earliest practicable date during such year, the amount of the allocation to which each eligible institution is entitled and shall notify each such institution in writing promptly thereafter as to the amount of such allocation.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 substituted references to "eligible institutions" for references to "States".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390h. Fiscal accountability

(a) Chief administrative officers; fiscal officers; duties, reports

Any eligible institution authorized to receive payments under the provisions of section 390c of this title shall have a chief administrative officer and a duly designated fiscal officer, who shall be the persons responsible for receipt of payments under the Acts referred to in section 390c(b) of this title, to whom payments can be directed by the Secretary. Such fiscal officer shall receive and account for all funds paid to such institution pursuant to the provisions of this subchapter, and shall submit a report, approved by the chief administrative officer of such institution, to the Secretary on or before the first day of December of each year. Such report shall contain a detailed statement of the amount received under the provisions of this subchapter during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

(b) Diminution, loss, or misapplication of funds

If any portion of the allotted funds received by the duly authorized fiscal officer of any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be repaid by the institution concerned, and until repaid no part of any subsequent appropriation shall be allocated or paid to such institution.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted reference to "eligible institution" for reference to "State agricultural experiment station", struck out directive

that the chief administrative officer be known as a director, and substituted reference to a "duly designated fiscal officer" for reference to a "treasurer or other officer appointed by the governing board".

Subsec. (b). Pub. L. 95-113 substituted reference to the "duly authorized fiscal officer of any eligible institution" for reference to the "authorized receiving officer of any State agricultural experiment station" and "repaid by the institution concerned" for "repaid by the State concerned".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390i. Reports to Congress

The Secretary shall make an annual report to Congress during the first regular session of each year with respect to (1) payments made under this subchapter, (2) the facilities, by institution, for which such payments were made, and (3) whether any portion of the appropriation available for allotment to any of the eligible institutions has been withheld and, if so, the reasons therefor.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 substituted reference to "eligible institution" and "institution" for references to "State" and "States".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390j. Availability of appropriated funds for administration

Three per centum of funds appropriated under this subchapter shall be available to the Secretary for administration of this subchapter.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 substituted provisions making available for administration three per centum of appropriated funds for provisions that any agricultural experiment station established by State law be eligible for benefits and that appropriated funds be divided between eligible institution in any one State.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 3311 of this title.

§ 390k. Repealed. Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 994

Section, Pub. L. 88-74, § 12, July 22, 1963, 77 Stat. 92, authorized the appropriation of such sums as might be necessary for proper administration of Pub. L. 88-74. See section 390j of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 17—MISCELLANEOUS MATTERS

§ 411b. Estimates of apple production

REPEATED

Pub. L. 95-97, title I, § 101, Aug. 12, 1977, 91 Stat. 815.

§ 427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities

It is declared to be the policy of the Congress to promote the efficient production and utilization of products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity. It is also the intent of Congress to assure agriculture a position in research equal to that of industry which will aid in maintaining an equitable balance between agriculture and other sections of our economy. For the attainment of these objectives, the Secretary of Agriculture is authorized and directed to conduct and to stimulate research into the laws and principles underlying the basic problems of agriculture in its broadest aspects, including but not limited to: Research relating to the improvement of the quality of, and the development of new and improved methods of the production, marketing, distribution, processing, and utilization of plant and animal commodities at all stages from the original producer through to the ultimate consumer; research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing, and preparation for use by the consumer; research relating to the development of present, new, and extended uses and markets for agricultural commodities and byproducts as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which our capacity to produce exceeds or may exceed existing economic demand; research to encourage the discovery, introduction, and breeding of new and useful agricultural crops, plants, and animals, both foreign and native, particularly for those crops and plants which may be adapted to utilization in chemical and manufacturing industries; research relating to new and more profitable uses for our resources of agricultural manpower, soils, plants, animals, and equipment than those to which they are now, or may hereafter be, devoted; research relating to the conservation, development, and use of land, forest, and water resources for agricultural purposes; research relating to the design, development, and the more efficient and satisfactory

use of farm buildings, farm homes, farm machinery, including the application of electricity and other forms of power; research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation); research relating to the diversification of farm enterprises, both as to the type of commodities produced, and as to the type of operations performed, on the individual farm; research relating to any other laws and principles that may contribute to the establishment and maintenance of a permanent and effective agricultural industry including such investigations as have for their purpose the development and improvement of the rural home and rural life, and the maximum contribution by agriculture to the welfare of the consumer and the maintenance of maximum employment and national prosperity; and such other researches or experiments bearing on the agricultural industry or on rural homes of the United States as may in each case be deemd [1] advisable, having due regard to the varying conditions and needs of Puerto Rico, the respective States, and Territories. In effectuating the purposes of this section, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable). For purposes of sections 427 to 427j of this title, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1416, 91 Stat. 1011.)

REFERENCES IN TEXT

Sections 427a to 427h and 427j of this title, referred to in text, were repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674.

The Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 added reference to research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation) and added definition of "solar energy".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

[1] So in original. Probably should be "deemed".

§ 427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427l, 1623a, 1629 of this title; title 21 section 113a.

§ 450i. Agricultural research program

(a) Establishment

In order to promote research in food, agriculture, and related areas, a research grants program is hereby established in the Department of Agriculture.

(b) Competitive grants

The Secretary of Agriculture is authorized to make competitive grants, for periods not to exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals, for research to further the programs of the Department of Agriculture. To the greatest extent possible the Secretary shall allocate these grants to high priority research taking into consideration, when available, the determinations made by the Joint Council on Food and Agricultural Sciences identifying high priority research areas. In seeking research proposals and in performing peer review evaluations of such proposals under this subsection, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, all colleges and universities, State agricultural experiment stations, and the private sector. The research grants shall be made without regard to matching funds by the recipient or recipients of such grants. There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this subsection, $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(c) Special grants

The Secretary of Agriculture is authorized to make grants, for periods not to exceed five years in duration—

(1) to land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research, as determined by the Secretary, to carry out research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the Nation; and

(2) to land-grant colleges and universities and State agricultural experiment stations, to facilitate or expand on-going State-Federal food and agricultural research programs that (A) promote excellence in research, (B) promote the development of regional research

centers, or (C) promote the research partnership between the Department of Agriculture and such colleges and universities or State agricultural experiment stations.

These grants shall be made without regard to matching funds.

(d) Facilities grants

The Secretary of Agriculture shall make annual grants to support the purchase of equipment, supplies, and land, and the construction, alteration, or renovation of buildings, necessary for the conduct of food and agricultural research, to—

(1) each State agricultural experiment station in an amount of $100,000 or an amount which is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), and the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), whichever is greater: *Provided,* That of any amount in excess of $50,000 made available under this paragraph during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount which the station makes available during that year for the purposes for which grants under this paragraph are made available; and

(2) each accredited college of veterinary medicine and State agricultural experiment station which receives funds from the Federal Government for animal health research, in an amount which is equal to 10 per centum of the animal health research funds received by such college or experiment station from the Federal Government during the previous fiscal year.

Any college or State agricultural experiment station eligible for annual grants under this subsection may elect to defer the receipt of an annual grant for any fiscal year for up to five years: *Provided,* That the total amounts deferred may not exceed $1,000,000. Application may be made for receipt of deferred grants at any time during the five years, subject to the matching funds requirement of this subsection and the availability of appropriations under this subsection.

(e) Recordkeeping; audit

Each recipient of assistance under this section shall keep such records as the Secretary of Agriculture shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

(f) Overhead costs

The Secretary of Agriculture shall limit allowable overhead costs, with respect to grants awarded under this section, to those necessary to carry out the purposes of the grants.

(g) Authorization of appropriations

Except as otherwise provided in subsection (b) of this section, there are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

(h) Rules and regulations

The Secretary of Agriculture is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this section.

(As amended Pub. L. 95-113, title XIV, § 1414, Sept. 29, 1977, 91 Stat. 991.)

REFERENCES IN TEXT

The Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), referred to in subsec. (d)(1), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a-582a-1-582a-7), referred to in subsec. (d)(1), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1977—Pub. L. 95-113 designated existing provisions as subsec. (e) and a part of subsec. (b) and added the remainder of subsec. (b) and subsecs. (a), (c), (d) and (f) to (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390c, 3122, 3222, 3241, 3311, 3315 of this title.

§ 450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its residue of chemical or toxic substances; nuclear radiation or fallout contaminants; other legal recourse

The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products from commercial markets because of residues of chemicals registered and approved

for use by the Federal Government at the time of such use. The Secretary is also authorized to make indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer: *Provided,* That no indemnity payment may be made for contamination resulting from such residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.

(As amended Pub. L. 95-113, title II, § 205(1), Sept. 29, 1977, 91 Stat. 920.)

AMENDMENTS

1977—Pub. L. 95-113 authorized indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or because of residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and added provision that no indemnity payment may be made for contamination resulting from residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 450*l*. Expiration of dairy farmer indemnity program

The authority granted under sections 450j to 450*l* of this title shall expire on September 30, 1981.

(As amended Pub. L. 95-113, title II, § 205(2), Sept. 29, 1977, 91 Stat. 920.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "September 30, 1981" for "June 30, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 26—AGRICULTURAL ADJUSTMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 671, 672, 673 of this title; title 12 section 1150a; title 18 section 433; title 41 section 22.

§ 608c. Orders regulating handling of commodity

[*See main edition for text of (1) to (4)*]

(5) Milk and its products; terms and conditions of orders

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

[*See main edition for text of (A) to (G)*]

(H) Omitted

[*See main edition for text of (I); (6) to (17)*]

(18) Milk prices

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

[*See main edition for text of (19)*]

CODIFICATION

Subsec. (5)(H), which permitted marketing orders applicable to milk and its products to be limited in application to milk used for manufacturing, was omitted from the Code as terminated. See Termination of 1965 Amendments note set out in main edition.

In subsec. (18), "or, in the case of orders applying only to manufacturing milk, the production area" following "marketing area" in two places, was deleted from the Code. See Termination of 1965 Amendments note set out in main edition.

TERMINATION OF 1970 AMENDMENT

Section 201(e) of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(2)(A), Aug. 10, 1973, 87 Stat. 222; Pub. L. 95-113, title II, § 201, Sept. 29, 1977, 91 Stat. 919, provided that: "The provisions of this section [amending subsec. (5)(B) of this section] shall not be effective after December 31, 1981, except with respect to orders providing for class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1984."

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1977 AMENDMENT STATUS

Pub. L. 95-113, title II, § 202. Sept. 29, 1977, 91 Stat. 919, provided that: "The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act [see Short Title note set out under section 601 of this title], as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [act June 3, 1937, ch. 296, 50 Stat. 246, set out as a note under section 601 of this title] shall be the same subsequent to the adoption of the amendment made by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note under section 1281 of this title] as it was prior thereto."

§ 608e-1. Import prohibition on tomatoes, avocados, limes, etc.; rules and regulations

Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, filberts, or eggplants produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided,* That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further,* That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if[1] this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.

(As amended Sept. 29, 1977, Pub. L. 95-113, title X, § 1006, 91 Stat. 951.)

AMENDMENTS

1977—Pub. L. 95-113 extended the import prohibition to filberts.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES; FURNISHING COMMODITIES TO SUMMER CAMPS

Pub. L. 93-86, § 4, Aug. 10, 1973, 87 Stat. 249, as amended by Pub. L. 93-347, § 1, July 12, 1974, 88 Stat. 340; Pub. L. 94-273, § 2(1), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95-113, title XIII, §§ 1302(a)(1), 1304(a), Sept. 29, 1977, 91 Stat. 979, 980, provided that:

"(a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1978, 1979, 1980, and 1981, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977 [section 2013(b) of this title]. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

"(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children under 18 years of age so

[1] So in original. Probably should be "of".

participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance."

[Pub. L. 93-233, § 8(b)(1), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 91 Stat. 255, eff. July 1, 1977, provided that: "Section 4(c) of Public Law 93-86 shall not be effective for the period ending September 30, 1978."] [For repeal of section 4(c) of Pub. L. 93-86, see section 1304(a) of Pub. L. 95-113.].

[Section 1302(b) and section 1304(a) in part, both of Pub. L. 95-113, provided that the amendment of subsecs. (a) and (b) of section 4 of Pub. L. 93-86 and the repeal of subsec. (c) of section 4 of Pub. L. 93-86 are effective Oct. 1, 1977.]

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Section 5 of Pub. L. 93-86, as added Pub. L. 95-113, title XIII, § 1304(b)(2), Sept. 29, 1977, 91 Stat. 980, eff. Oct. 1, 1977, provided that:

"(a) In carrying out the supplemental feeding program (hereinafter referred to as the 'commodity supplemental food program') to which reference is made in section 4 of this Act [set out as a note above], the Secretary of Agriculture shall pay to each State or local agency administering any such program, for each of the fiscal years 1978 through 1981, an amount equal to its administrative costs not in excess of an amount equal to 15 per centum of the total amount of the value of commodities made available to the State or local agency for such program in such fiscal year.

"(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

"(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

"(d) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program."

[Section 1304(b) of Pub. L. 95-113 provided in part that section 5 of Pub. L. 93-86 is effective Oct. 1, 1977.]

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING THE PERIOD ENDING SEPTEMBER 30, 1978

Pub. L. 93-233, § 8(b)(3), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 91 Stat. 255, provided that: "For the period ending September 30, 1978, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of Title 42, The Public Health and Welfare], State supplementary payments described in section 1616 of such Act [section 1382e of Title 42], or payments of the type referred to in section 212(a) of Public Law 93-66 [set out as a note under section 1382 of Title 42], shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74-320 [this section], section 416 of the Agricultural Act of 1949 [section 1431 of this title], or any other law, for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps." [Amendment by Pub. L. 93-335 effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as an Effective Date of 1974 Amendment note under section 1382 of Title 42. The Public Health and Welfare Section 3 of Pub. L. 95-59 provided in part that the amendment of section 8 of Pub. L. 93-233 by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1392, 1421, 1424, 1431b, 1641, 1855, 2627 of this title; title 12 section 1150a; title 15 sections 713c, 713c-2, 713c-3; title 22 section 1922; title 40 section 474; title 42 sections 1755, 1758, 1761, 1762, 1762a, 1766, 1777, 1786, 3045f, 5180.

§ 612c-3. Export sales reports; reporting period; contents; confidentiality; compilation and publication by Secretary; penalty for failure to report; monthly reports

All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may, with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substan-

tially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales, provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(As amended Pub. L. 95-113, title X, § 1005, Sept. 29, 1977, 91 Stat. 951.)

AMENDMENTS

1977—Pub. L. 95-113 provided that whenever the Secretary requires that information be reported by exporters on a daily basis, the information compiled from individual reports be made available to the public daily.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87f-2 of this title; title 50 App. sections 2403, 2409.

CHAPTER 26A—AGRICULTURAL MARKETING AGREEMENTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 50 App. section 2166.

CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

SUBCHAPTER I—RURAL ELECTRIFICATION

Sec.
916. Criteria for loans [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 590z-7; title 43 section 485h.

SUBCHAPTER I—RURAL ELECTRIFICATION

§ 912a. Rescheduling and refinancing of loans

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 916. Criteria for loans

In order to insure coordination of electric generation and transmission financing under this chapter with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this chapter as may be published by the Secretary of Energy.

(May 20, 1936, ch. 432, title I, § 16, as added Aug. 4, 1977, Pub. L. 95-91, title VII, § 709(f), 91 Stat 608.)

CHAPTER 33—FARM TENANCY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1006a, 1981 of this title; title 12 sections 84, 1150a; title 16 sections 241e, 441h, 441i; title 18 section 433; title 25 section 621; title 38 section 1811; title 43 section 451f.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1931 of this title; title 16 sections 241e, 441h, 1609; title 30 section 601.

§ 1011. Powers of Secretary of Agriculture

To effectuate the program provided for in section 1010 of this title, the Secretary is authorized—

[*See main edition for text of* (a) *to* (d)]

(e) To cooperate with Federal, State, territorial, and other public agencies and local nonprofit organizations in developing plans for a program of land conservation and land utilization or plans for the conservation, development, and utilization of water for aquacultural purposes, to assist in carrying out such plans by means of loans to State and local public agencies and local nonprofit organizations designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this subchapter, and to disseminate information concerning these activities. As used in this subsection, the term "aquaculture" means the culture or husbandry of aquatic animals or plants. Loans to State and local public agencies and to local nonprofit organizations shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of $500,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue. Repayment of principal and interest on such loans shall begin within 5 years. In providing assistance for carrying out plans developed under this subchapter, the Secretary shall be author-

ized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided,* That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further,* That when a State or other public agency or local nonprofit organization participating in a plan developed under this subchapter agrees to operate and maintain any reservoir or other area included in a plan for public waterbased fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further,* That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public waterbased fish and wildlife or receptional development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 460*l*-4 et seq.]; and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority.

The Secretary shall also be authorized in providing assistance for carrying out plans developed under this subchapter:

[*See main edition for text of (1) and (2); (f)*]

(As amended S. Res. 4, Feb. 4, 1977; Sept. 29, 1977, Pub. L. 95-113, title XV, §§ 1503(a), 1507, 91 Stat. 1021, 1022.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-113 added reference to plans for the conservation, development, and utilization of water for aquacultural purposes, added the definition of "aquaculture", and substituted "$500,000" for "$250,000".

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate, referred to in subsec. (e), was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

Sec.
1308. Limitation on payments under wheat, feed grains, upland cotton, and rice programs for 1978 through 1981 crops [New].
1309. Set-aside of normally planted acreage, 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice [New].
1310. American agriculture protection program [New].
(a) Determination of short supply; suspension of commercial export sales; parity price.
(b) Duration of loan level.
(c) Definition.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 1428, 1442, 1444a, 1446c, 1745 of this title.

GENERAL PROVISIONS

§ 1281. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-113, § 1, Sept. 29, 1977, 91 Stat. 913, provided: "That this Act [enacting sections 1308 to 1310, 1444c, 1445b to 1445f, 1715, 2027, 2266, 2267, 2281 to 2289, 2669, 2670, 3101 to 3103, 3121 to 3128, 3151 to 3154, 3171 to 3178, 3191 to 3201, 3221, 3222, 3241, 3251, 3252, 3261 to 3263, 3271, 3281, 3282, 3291, 3301 to 3304, 3311 to 3316, and 3401 to 3417 of this title and section 590q-3 of Title 16, Conservation, amending sections 75 to 79b, 84, 87 to 87b, 87e, 87f-1, 87f-2, 87h, 341 to 343, 361c, 390 to 390j, 427, 450i, 450j, 450*l*, 608e-1, 612c-3, 1011, 1307, 1352, 1358 to 1359, 1373, 1374, 1377, 1385, 1427 to 1428, 1431, 1441, 1444, 1446, 1446a, 1447, 1622, 1702, 1724, 1731 to 1733, 1736b, 1736c, 1781, 1782, 1923, 1929, 1929a, 1932, 1942, 2011 to 2026, 2201, 2204, 2652, 2654, 2662, 2663, and 2667 of this title, section 714b of Title 15, Commerce and Trade, sections 590h, 590o, 1002, 1005, 1006a, and 1505 of Title 16, and section 6651 of Title 42, The Public Health and Welfare, repealing section 390k of this title, enacting provisions set out as notes under sections 74, 75a, 612c, 1281, 1307, 1330, 1331, 1342, 1352, 1353, 1358, 1358a, 1359, 1373, 1377, 1379d, 1385, 1427, 1428, 1441, 1444, 1444b, 1444c, 1445a to 1445c, 1446, 1446d, 1447, 1691, 2011, 2012, 2266, 3101, and 3401 of this title and section 714b of Title 15, and amending provisions set out as notes under sections 74, 79, 135b, 608c, 612c, 1308, and 2011 of this title and under section 1382e of Title 42] may be cited as the 'Food and Agriculture Act of 1977'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-86, § 6, formerly § 5, Aug. 10, 1973, 87 Stat. 250, as renumbered Pub. L. 95-113, title XIII, § 1304(b)(1), Sept. 29, 1977, 91 Stat. 980, provided that: "This Act [which enacted sections 428b, 612c-2, 612c-3, 1282a, 1427a, 1434, 1441a, 1736e, and 2026 of this title and sections 1501 to 1510 of Title 16, Conservation, amended sections 450j, 450*l*, 608c, 1301, 1305, 1306, 1307, 1334a-1, 1342a, 1344b, 1350, 1374, 1379b, 1379c, 1379g, 1428, 1444, 1445a, 1446, 1446a, 1703, 1736c, 1782, 1787, 1925, 1926, 1932, 2012, 2014, 2016, 2019, 2025, 2119, 2651, and 2654 of this title, repealed section 1628 of this title, enacted provisions set out as notes under sections 608c, 612c, 624, 1301, 1305, 1306, 1344b, 1350, 1379b, 1379c, 1379d, 1441, 1444, 1445a, and 1446 of this title, section 142 of Title 13, Census, and

section 71 of Title 45, Railroads, and amended provisions set out as notes under sections 135b, 608c, 1305, 1330 to 1336, 1338, 1339, 1342, 1343, 1344, 1344b, 1345, 1346, 1377 to 1379, 1379b, 1379c, 1385, 1427, 1428, 1441, 1445a, 1446, and 1446d of this title] may be cited as the 'Agriculture and Consumer Protection Act of 1973'."

SUBCHAPTER I—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

§ 1291. Adjustments in freight rates

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

§ 1301. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1111, 1301a, 1330, 1445, 1782 of this title; title 43 sections 620c, 1524.

§ 1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop of the commodities shall not exceed $20,000.

[*See main edition for text of (2) to (4)*]

(As amended Pub. L. 95-113, title I, § 104, Sept. 29, 1977, 91 Stat. 919.)

REFERENCES IN TEXT

The Food and Agriculture Act of 1977, referred to in par. (1), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913. Title IV of the Food and Agriculture Act of 1977 enacted section 1445b of this title, amended sections 1385, 1427, and 1428 of this title, and enacted provisions set out as notes under sections 1330, 1331, 1379d, 1385, 1427, 1428, 1445a, and 1445b of this title. Title V of the Food and Agriculture Act of 1977 enacted section 1444c of this title and enacted provisions set out as notes under sections 1444b and 1444c of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under 1281 of this title and Tables.

AMENDMENTS

1977—Par. (1). Pub. L. 95-113 substituted "to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop" for "to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1901 of Pub. L. 95-113 provided that: "Except as otherwise provided herein, the provisions of this Act [see Short Title of 1977 Amendment note set out under section 1281 of this title] shall become effective October 1, 1977."

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Pub. L. 95-156, Nov. 8, 1977, 91 Stat. 1264, provided: "That, notwithstanding any other provision of law, the term 'payments' as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

§ 1308. Limitation on payments under wheat, feed grains, upland cotton, and rice programs for 1978 through 1981 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under—

(A) one or more of the annual programs established under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], and the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], for wheat, feed grains, and upland cotton shall not exceed $40,000 for the 1978 crop and $45,000 for the 1979 crop;

(B) the annual rice program established under such Acts shall not exceed $52,250 for the 1978 crop and $50,000 for the 1979 crop; and

(C) one or more of the annual programs established under such Acts for wheat, feed grains, upland cotton, and rice shall not exceed $50,000 for each of the 1980 and 1981 crops.

(2) The term "payments" as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of such

limitation: *Provided*, That the provisions of this section which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970, under section 1307 of this title.

(Pub. L. 95-113, title I, § 101, Sept. 29, 1977, 91 Stat. 917.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in par. (1)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Agricultural Adjustment Act of 1938, as amended, referred to in par. (1)(A), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to this chapter (§ 1281 et seq.). For complete classification of this Act to the Code, see section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95-133, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977, and not as part of act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, known as the Agricultural Adjustment Act of 1938, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1444c, 1445b of this title.

§ 1309. Set-aside of normally planted acreage, 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice

Notwithstanding any other provision of law, whenever a set-aside is in effect for one or more of the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], that the acreage normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers, shall be reduced by the acreage of set-aside or diversion.

(Pub. L. 95-113, title X, § 1001, Sept. 29, 1977, 91 Stat. 950.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in text is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95-133, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977, and not as part of act Feb. 16, 1938, ch. 30, 52 Stat. 31, known as the Agricultural Adjustment Act of 1938, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1446 of this title.

§ 1310. American agriculture protection program

(a) Determination of short supply; suspension of commercial export sales; parity price

Notwithstanding any other provision of law, whenever the President or any other member of the executive branch of the Federal Government causes to be suspended, based upon a determination of short supply, the commercial export sales of any commodity, as defined in subsection (c) of this section, to any country or area with which the United States otherwise continues commercial trade, the Secretary of Agriculture shall, on the day the suspension is initiated, set the loan level for such commodity under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], if a loan program is in effect for the commodity, at 90 per centum of the parity price for the commodity, as such parity price is determined on the day the suspension is initiated.

(b) Duration of loan level

Any loan level established pursuant to subsection (a) of this section shall remain in effect as long as the suspension of commercial export sales described in subsection (a) of this section remains in effect.

(c) Definition

For purposes of this section, the term "commodity" shall include any of the following: wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed, and cotton.

(Pub. L. 95-113, title X, § 1002, Sept. 29, 1977, 91 Stat. 950.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95-133, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977, and not as part of act Feb. 16, 1938, ch. 30, 52 Stat. 31, known as the Agricultural Adjustment Act of 1938, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

PART B—MARKETING QUOTAS

SUBPART I—MARKETING QUOTAS—TOBACCO

§ 1314b. Leases of tobacco acreage allotments or quotas

[See main edition for text of (a) and (b)]

(c) Filing with county committees; determination of compliance with requirements; calculation of normal yield for transfer

The lease and transfer of any allotment shall not be effective until a copy of such lease is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. Any lease of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of two thousand pounds filed on or after June 15 in any year shall not be effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 80 per centum of the farm acreage allotment in effect for such year. If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease and transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

[See main edition for text of (d) to (i)]

(As amended June 25, 1977, Pub. L. 95-54, 91 Stat. 250.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-54 substituted provision allowing leasing of flue-cured tobacco acreage-poundage quotas after June 15 of any year only between farms on which at least 80 per centum of the farm acreage allotment was planted for such year for provision which had formerly required only a 50 per centum planting.

SUBPART II—ACREAGE ALLOTMENTS—CORN

§ 1330. Supplemental provisions relating to wheat marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1978 THROUGH 1981

Pub. L. 95-113, title IV, § 406, Sept. 29, 1977, 91 Stat. 927, provided that: "Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section and section 1340 of this title] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981."

SUBPART III—MARKETING QUOTAS—WHEAT

§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, provided that: "Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938, as amended [sections 1331, 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title], shall not be applicable to the 1978 through 1981 crops of wheat."

§§ 1332 to 1334

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

These sections inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§ 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

This section inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§ 1336. Referendum

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall

proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-fifth Congress, or (2) October 15, 1977.

(As amended June 17, 1977, Pub. L. 95-48, 91 Stat. 229.)

AMENDMENTS

1977—Pub. L. 95-48 substituted provisions extending the date for the conduct of the referendum with respect to the national marketing for wheat for the marketing year beginning June 1, 1978, by allowing the referendum to be conducted not later than thirty days after the adjournment sine die of the first session of the Ninety-fifth Congress or Oct. 15, 1977, whichever is earlier, for provisions which had set the time limits for the referendums with respect to the national marketing quotas for wheat for the marketing years beginning July 1, 1966, July 1, 1971, and July 1, 1974, respectively.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

This section inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§§ 1338, 1339

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

These sections inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1978 THROUGH 1981

This section inapplicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981, see Pub. L. 95-113, title IV, § 406, Sept. 29, 1977, 91 Stat. 727, set out as a note under section 1330 of this title.

SUBPART IV—MARKETING QUOTAS—COTTON

§ 1342. National marketing quota; proclamation; amount; date of proclamation

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, provided that: "Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title], shall not be applicable to upland cotton of the 1978 through 1981 crops."

PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND COTTON

Pub. L. 95-113, title VI, § 606, Sept. 29, 1977, 91 Stat. 940, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1982 crop."

§§ 1343, 1344

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

These sections inapplicable to upland cotton of the 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, set out as a note under section 1342 of this title.

§§ 1345, 1346

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

These sections inapplicable to upland cotton of the 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, set out as a note under section 1342 of this title.

SUBPART V—MARKETING QUOTAS—RICE

§ 1352. National acreage allotment and allocation

(a) Acreage allotments, 1976 through 1981

The Secretary shall establish for each of the 1976 through 1981 crops of rice a national acreage allotment in the amount of one million eight hundred thousand acres.

[See main edition for text of (b) to (e)]

(f) Excess acreage

Any acreage planted to rice in excess of the farm or producer acreage allotment in the crop years 1976 through 1981 shall not be taken into account in establishing farm, or producer acreage allotments in any year following such period.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VII, § 701, 91 Stat. 940.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "1976 through 1981" for "1976 and 1977".

Subsec. (f). Pub. L. 95-113 substituted "1976 through 1981" for "1976 and 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 701 of Pub. L. 95-113 provided in part that the amendment by section 701 of Pub. L. 95-113 is effective beginning with the 1978 crop of rice.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1441 of this title.

§§ 1353 to 1356

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF RICE

Pub. L. 95-113, title VII, § 703, Sept. 29, 1977, 91 Stat. 943, provided that: "Sections 353, 354, 355, 356, and

377 of the Agricultural Adjustment Act of 1938, as amended [sections 1353, 1354, 1355, 1356, and 1377 of this title], shall not be applicable to the 1978 through 1981 crops of rice."

SUBPART VI—MARKETING QUOTAS—PEANUTS

§ 1358. National marketing quota

[*See main edition for text of* (a) *and* (b)]

(c) Apportionment of national acreage allotment

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945–1949: *Provided,* That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to February 16, 1938, shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made: *Provided,* That the peanut acreage allotment for the State of New Mexico shall not be reduced below the 1977 acreage allotment as increased pursuant to subsection (c)(2) of this section.

[*See main edition for text of* (2); (d) *to* (j)]

(k) National acreage allotment

The Secretary shall, not later than December 1 of each year, announce a national acreage allotment for peanuts for the following crop taking into consideration projected domestic use, exports, and a reasonable carryover: *Provided,* That such allotment shall be not less than one million six hundred and fourteen thousand acres.

(*l*) Minimum national poundage quota

The Secretary shall, not later than December 1 of each year, announce a minimum national poundage quota for peanuts for the following marketing year of the following amounts: 1978, 1,680,000 tons; 1979, 1,596,000 tons; 1980, 1,516,000 tons; and 1981, 1,440,000 tons. If the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the national poundage quota for the marketing year may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements.

(m) Farm yield

For each farm for which a farm acreage allotment has been established, a farm yield for peanuts shall be determined. Such yield shall be equal to the average of the actual yield per acre on the farm for each of the three crop years in which yields were highest on the farm out of the five crop years 1973 through 1977: *Provided,* That if peanuts were not produced on the farm in at least three years during such five-year period or there was a substantial change in the operation of the farm during such period (including, but not limited to, a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that amount determined to be fair and reasonable on the basis of yields established for similar farms which are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

(n) Farm base production poundage

For each farm, a farm base production poundage shall be established equal to the quantity determined by multiplying the farm peanut acreage allotment by the farm yield determined in accordance with subsection (m) of this section.

(*o*) Farm poundage quota

For each farm, a farm poundage quota shall be established by the Secretary for each marketing year equal to the farm base production poundage multiplied by a factor determined by the Secretary, such that the total of all farm poundage quotas will equal the national poundage quota for such marketing year. The poundage quota so determined, beginning with the 1979 crop for any farm, shall be increased by the number of pounds by which marketings of quota peanuts from the farm during the immediately preceding marketing year were less than the farm poundage quota: *Provided,* That total marketings shall not exceed actual production from the farm acreage allotment: *Provided further,* That the grower must have planted in such preceding marketing year that part of the farm allotment estimated on the basis of the farm yield to be sufficient to produce the total farm poundage quota: *Provided further,* That if the total of all such increases in individual farm poundage quotas exceeds 10 per centum of the national poundage quota for the marketing year, the Secretary shall adjust such increases so that the total of all increases does not exceed 10 per centum of the national poundage quota.

(p) Definitions

For the purposes of this part and title I of the Agricultural Act of 1949, as amended [7 U.S.C. 1441 et seq.]

(1) "quota peanuts" means, for any marketing year, any peanuts which are eligible for domestic edible use as determined by the Secretary, which are marketed or considered marketed from a farm, and which do not

exceed the farm poundage quota of such farm for such year;

(2) "additional peanuts" means, for any marketing year, any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for such year but not in excess of the actual production of the farm acreage allotment;

(3) "crushing" means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary; and

(4) "domestic edible use" means use for milling to produce domestic food peanuts and seed and use on a farm.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, §§ 801(b), 802, 91 Stat. 944.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (p), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051 as amended. Title I of the Agricultural Act of 1949, as amended, is classified generally to subchapter II (§ 1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-113, § 801(b), added proviso that the peanut acreage allotment for the State of New Mexico not be reduced below the 1977 acreage allotment as increased pursuant to subsec. (c)(2) of this section.

Subsecs. (k) to (p). Pub. L. 95-113, § 802, added subsecs. (k) to (p).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 801(b) of Pub. L. 95-113 provided in part that the amendment of subsec. (c)(1) Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

Section 802 of Pub. L. 95-113 provided in part that subsecs. (k) through (p) are effective for the 1978 through 1981 crops of peanuts.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF PEANUTS

Section 801(a) of Pub. L. 95-113 provided that: "Subsections (a) and (e) [of this section] shall not be applicable to the 1978 through 1981 crops of peanuts."

§ 1358a. Transfer of peanut acreage allotments

(a) Authority to permit transfers

Notwithstanding any other provision of law for the 1968 and succeeding crop years, the Secretary (1) shall permit the owner and operator of any farm for which a peanut acreage allotment is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in the same county for transfer to such farm; and (2) shall permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him.

[*See main edition for text of* (b) *to* (h)]

(i) Farm base production poundage as basis for transfers; change in acreage allotments

Notwithstanding any other provision of this section, transfers shall be on the basis of the farm base production poundage, and the acreage allotment for the receiving farm shall be increased by an amount determined by dividing the number of pounds transferred by the farm yield for the receiving farm, and the acreage allotment for the transferring farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferring farm.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 803, 91 Stat. 946.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 803(1), struck out ", if he determines that it will not impair the effective operation of the peanut marketing quota or price support program," following "the Secretary" and substituted "shall" for "may" wherever appearing.

Subsec. (i). Pub. L. 95-113, § 803(2), added subsec. (i).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 803 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

§ 1359. Marketing penalties

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 120 per centum of the support price for quota peanuts for the marketing year (August 1 to July 31). The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section. Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the

United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the farm yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed. Notwithstanding any other provisions of this subpart, no refund of any penalty shall be made because of peanuts kept on the farm for seed or for home consumption.

[*See main edition for text of* (*b*) *to* (*e*)]

(f) Only quota peanuts may be retained for use as seed or for other uses on a farm and when so retained shall be considered as marketings of quota peanuts. Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use. Seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

(g) Upon a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by such handler from such crop for such marketing, such handler shall be subject to a penalty equal to 120 per centum of the loan level for quota peanuts on the peanuts which the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

(h) The Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 1445c(c) of this title. Quota and additional peanuts of like type and segregation or quality may, under regulations prescribed by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

(i) Handlers may, under regulations prescribed by the Secretary, contract with producers for the purchase of additional peanuts for crushing, export, or both. All such contracts shall be completed and submitted to the Secretary (or if designated by the Secretary, the area association) for approval prior to June 15 of the year in which the crop is produced.

(j) Subject to the provisions of section 1427 of this title, any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use in accordance with regulations established by the Secretary. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus (1) 100 per centum of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season upon delivery by the producer, or (2) 105 per centum of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year, or (3) 107 per centum of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 804, 91 Stat. 946.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 804(1)-(3), substituted "penalty at a rate equal to 120 per centum of the support price for quota peanuts" for "penalty at a rate equal to 75 per centum of the support price for peanuts" and "farm yield" for "normal yield" and added provision that the marketing of any additional peanuts from a farm be subject to the 120 per centum penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section.

Subsecs. (f) to (j). Pub. L. 95-113, § 804(4), added subsecs. (f) to (j).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 804 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445c of this title.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or stemming tobacco for producers, all farmers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

[*See main edition for text of* (b) *and* (c)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 805, 91 Stat. 947.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 inserted reference to all farmers engaged in the production of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 805 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1981 crops.

[*See main edition for text of* (b) *and* (c)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title VI, § 605, 91 Stat. 940.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "1981" for "1977" in the provisions setting the last year for application of the 1971 through 1973 skiprow patterns in classifying the acreage planted to cotton.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided,* That beginning with the 1960

crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years as acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the Great Plains program): *Provided further,* That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 806, 91 Stat. 947.)

AMENDMENTS

1977—Pub. L. 95-113 inserted "or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota" following "of the farm acreage allotment for such year".

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 806 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

This section inapplicable to upland cotton of the 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, set out as a note under section 1342 of this title.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF RICE

This section not applicable to the 1978 through 1981 crops of rice, see Pub. L. 95-113, title VII, § 703, Sept. 29, 1977, 91 Stat. 943, set out as a note under section 1353 of this title.

PART D—WHEAT MARKETING ALLOCATION

§§ 1379b, 1379c

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

These sections inapplicable to the 1978 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§§ 1379d to 1379j

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING THE PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

Pub. L. 95-113, title IV, § 403, Sept. 29, 1977, 91 Stat. 926, provided that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982."

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

SUBPART I—MISCELLANEOUS

§ 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any Soil Conservation Act [16 U.S.C. 590a et seq.] payment, any payment under the wheat, feed grain, upland cotton, and rice programs authorized by the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(As amended Sept. 29, 1977, Pub. L. 95-113, title IV, § 405, 91 Stat. 927.)

REFERENCES IN TEXT

The Soil Conservation Act, referred to in text, probably means the Soil Conservation and Domestic Allotment Act, act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set under section 1421 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-113 substituted "The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, and rice programs authorized by the Agricultural Act of 1949 and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other offi-

cer or agency of the Government "for" The facts constituting the basis for any payment under the Soil Conservation and Domestic Allotment Act, as amended, parity payment, payments under the cotton set-aside program, payments under the rice program authorized by section 1441(g) of this title, payments (including certificates) under the wheat and feed grain set-aside programs, payment under section 1339 of this title, loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government".

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 405 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective only for the 1978 through 1981 crops.

CHAPTER 35A—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

Sec.
1444c. Loan rates and target prices for 1977 through 1981 feed grain crops [New].
(a) Loans and purchases; reduction.
(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments.
(c) Fair and equitable sharing of payments.
(d) Program acreages; proclamation; revision; adjustments; program allocation factor.
(e) Payment yield.
(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification.
(g) Defaults.
(h) Rules and regulations.
(i) Commodity Credit Corporation.
1445b. Loan rates and target prices for 1977 through 1981 wheat crops [New].
(a) Loans and purchases; reduction.
(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments.
(c) Fair and equitable sharing of payments.
(d) Program acreages; proclamation; revision; adjustments; program allocation factor.
(e) Payment yield.
(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification.
(g) Defaults.
(h) Rules and regulations.
(i) Commodity Credit Corporation.
1445c. Price support program for 1978 through 1981 crops of peanuts [New].
(a) Support levels for quota peanuts; adjustments.
(b) Support levels for additional peanuts.
(c) Warehouse storage loans; pools; records; net gains.
1445d. Special wheat acreage grazing and hay program for 1978 through 1981 crop years [New].
(a) Authorization for program; acreage designation; payment.
(b) Specific farm acreage.
(c) Determination of payment.
(d) Other acreage set-aside programs.
(e) Rules and regulations.
(f) Commodity Credit Corporation.
1445e. Producer storage program for wheat and feed grains [New].
(a) Formulation and administration; safeguards.
(b) Terms and conditions; waiver.
(c) Announcement.
(d) Restriction.
(e) Grain reconcentration.
(f) Purchases; daily list.
(g) Commodity Credit Corporation.
1445f. International Emergency Food Reserve [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1301, 1305, 1308, 1309, 1310, 1314f, 1334b, 1380f, 1380p, 1385, 1446c, 1745 of this title; title 26 section 451; title 43 sections 620c, 1524.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1421. Price support

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1444, 1444b, 1444c, 1445c, 1448 of this title.

§ 1423. Adjustment of support prices

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1445c of this title.

§ 1427. Sale of farm commodities; policies and rates of sale; exceptions; use of commodities to relieve distress

The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges: *Provided*, That effective with the beginning of the marketing year for the 1961 crop, the Corporation shall not sell any upland or extra long staple cotton for unre<stricted use at less than 15 per centum above the current support price for cotton plus reasonable carrying charges, except that the Corporation may, in an orderly manner and so as not to affect market prices unduly, sell for unrestricted use at the market

price at the time of sale a number of bales of cotton equal to the number of bales by which the national marketing quota for such marketing year is reduced below the estimated domestic consumption and exports for such marketing year pursuant to the provisions of section 1342 of this title: *Provided further*, That beginning August 1, 1964, the Commodity Credit Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges: *Provided*, That the Corporation shall not sell any of its stocks of wheat, corn, grain, sorghum, barley, oats, and rye, respectively, at less than 115 per centum of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate, plus reasonable carrying charges. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, shall make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States including the Virgin Islands declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended, and shall make feed owned or controlled by it available at any price not less than 75 per centum of the current basic county loan rate (or a comparable price if there is no current basic county loan rate) for assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep and goats, and their offspring, in any area of the United States including the Virgin Islands where, because of flood, drought, fire, hurricane, earthquake, storm, disease, insect infestation, or other catastrophe in such areas, the Secretary determines that an emergency exists which warrants such assistance, such feed to be made available only to persons who do not have, and are unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such lifestock: *Provided*, That the Secretary may provide for the furnishing of feed or mixed feed, in accordance with regulations prescribed by him, to such persons by feed dealers under an arrangement whereby the feed grains (or other feed being sold by the Corporation) in the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons at a price determined as provided above. Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making such commodity available beyond the cost of the commodities to the Corporation in store and the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area. Nor shall the foregoing restrictions apply to sales or commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support program or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use. For the purposes of this section, sales for export shall not only include sales made on condition that the identical commodities sold be exported, but shall also include sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form. Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly. Notwithstanding any other provision of this section, effective August 1, 1968, the Commodity Credit Corporation shall make available during each marketing year for sale for unrestricted use at market prices at the time of sale, a quantity of American grown extra long staple cotton equal to the amount by which the pro-

duction of such cotton in the calendar year in which such marketing year begins is less than the estimated requirements of American grown extra long staple cotton for domestic use and for export for such marketing year: *Provided*, That no sales shall be made at less than 115 per centum of the loan rate for extra long staple cotton under section 1441(f) of this title beginning with the marketing year for the first crop for which the national marketing quota for extra long staple cotton is not established under paragraph (3) of section 1347(b) of this title. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly.

(Oct. 31, 1949, ch. 792, title IV, § 407, 63 Stat. 1055; July 10, 1954, ch. 469, title III, § 308, formerly § 301, 68 Stat. 458, renumbered Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(1), 91 Stat. 548, and amended July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Aug. 28, 1958, Pub. L. 85-835, title I, § 109, 72 Stat. 993: Aug. 7, 1961, Pub. L. 87-127, 75 Stat. 293; Sept. 27, 1962, Pub. L. 87-703, title III, § 325(2), title IV, § 404, 76 Stat. 631, 632; Apr. 11, 1964, Pub. L. 88-297, title I, § 104, title II, § 204, 78 Stat. 175, 183; Sept. 11, 1964, Pub. L. 88-585, § 1, 78 Stat. 927; Nov. 3, 1965, Pub. L. 89-321, title IV, § 404, 79 Stat. 1197; Nov. 11, 1966, Pub. L. 89-808, § 3(e), 80 Stat. 1538; Aug. 11, 1968, Pub. L. 90-475, § 7, 82 Stat. 703; Oct. 11, 1968, Pub. L. 90-559, § 1(5), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, § 409, title VI, § 603, 84 Stat. 1367, 1377; Sept. 29, 1977, Pub. L. 95-113; title IV, § 408, title VI, § 603, 91 Stat. 927, 939.)

PRIOR PROVISIONS

A prior section 308 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 13, 73 Stat. 609, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 203, 76 Stat. 611, which enacted section 1697 of this title, was repealed by Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1977—Pub. L. 95-113 re-enacted without change the amendments made in 1970 by section 409 of Pub. L. 91-524 which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and re-enacted the amendment made in 1970 by section 603 of Pub. L. 91-524 with regard to the sale of upland cotton by the Corporation with the single change of substituting "at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton" for "at less than 110 per centum of the loan rate for Middling one-inch upland cotton" in the provisions setting the minimum price at which the Corporation shall sell upland cotton for unrestricted use.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 408 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113, which re-enacted without change the amendment first made by section 409 of Pub. L. 91-524 in 1970 establishing a floor for sales of wheat and feed grains and changing the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations, is effective only with respect to the marketing years for the 1978 through 1981 crops.

Section 603 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113, which re-enacted with some changes [see 1977 Amendment note] the amendment first made by section 603 of Pub. L. 91-524 in 1970 relating to the sale of upland cotton by the Corporation, is effective only with respect to the period beginning Aug. 1, 1978, and ending July 31, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359, 1427a, 1428, 1433, 1445e, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1712, 1721, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b, 1744, 1853 of this title; title 50 App. section 2093.

§ 1427a. Reserve inventories for alleviation of distress of natural disaster

[*See main edition for text of* (*a*)]

(b) Acquisition of commodities through price support program

The Secretary shall acquire such commodities through the price support program. However, if the Secretary determines that no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress caused by a natural disaster, the Secretary is authorized to purchase through the facilities of the Commodity Credit Corporation such wheat, feed grains, soybeans, hay, or other livestock forages as the Secretary deems necessary for disposition in accordance with the authority provided in subsection (d) of this section. The Secretary may acquire wheat, feed grains, soybeans, hay, or other livestock forages at such locations, at such times, and in such quantities as the Secretary finds necessary and appropriate and may pay such transportation and other costs as may be required to permit disposition of such wheat, feed grains, soybeans, hay, and other livestock forages under subsection (d) of this section.

[*See main edition for text of* (*c*)]

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant as-

sistance under section 1427 of this title, the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 2267 of this title; or (2) use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251-2297).

[*See main edition for text of* (*e*) *to* (*h*)]

(As amended Pub. L. 95-113, title XI, § 1103, Sept. 29, 1977, 91 Stat. 953.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974 (88 Stat. 143, as amended; 42 U.S.C. 5121), referred to in subsec. (d), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86-299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

The Federal Civil Defense Act of 1950, as amended, (50 U.S.C. App. 2251-2297), referred to in subsec. (d), is act Jan. 12, 1951, ch. 1228, 64 Stat. 1245, as amended, which is classified generally to section 2251 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2251 of Title 50, App. and Tables.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-113, § 1103(a), added provisions authorizing the Secretary to act if it is determined that no wheat, feed grains, or soybeans are available through the price support program at locations where they can be economically utilized to alleviate distress caused by a natural disaster.

Subsec. (d). Pub. L. 95-113, § 1103(b), substituted "(A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959, or section 2267 of this title" for "(a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445e of this title.

§ 1428. Definitions

For the purposes of this Act—

[*See main edition for text of* (*a*)]

(b) A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided*, That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided*, That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title: *Provided further*, That for the 1976 through 1981 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 1441(g) of this title. *Provided further*, That for the 1978 through 1981 crops of upland cotton, a cooperator shall be a producer on a farm who has set aside the acreage required under section 1444(f) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

[*See main edition for text of* (*c*) *to* (*j*)]

(k) References made in sections 1422, 1423, 1426, and 1431 of this title to the terms "support price," "level of support," and "level of price support" shall be considered to apply as well to the level of loans and purchases for wheat and feed grains under this Act; and references made to the terms "price support," "price support operations," and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for wheat and feed grains under this Act.

(*l*) References made in sections 1422, 1423, 1426, and 1431 of this title to the terms "support price," "level of support," and "level of price support" shall be considered to apply as well to the level of loans and purchases for

upland cotton under this Act; and references made to the terms "price support," "price support operations," and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for upland cotton under this Act.

(m) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to terms "support price", "level of support", and "level of price support" shall be considered to apply as well to the level of loans and purchases for rice under this Act, and references made to the terms "price support", "price support operation", and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for such rice in this Act.

(As amended Sept. 29, 1977, Pub. L. 95-113, title IV, § 407, title VI, § 604, title VII, §§ 704, 705, 91 Stat. 927, 939, 944.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-113 §§ 604(a), 704, added proviso defining cooperator for purposes of the 1978 through 1981 crops of upland cotton as a producer on a farm who has set aside the acreage required under section 1444(f) of this title and substituted "1976 through 1981 crops of rice" for "1976 and 1977 crops of rice" in the proviso defining cooperator for purposes of specific crops of rice.

Subsec. (k). Pub. L. 95-113, § 407, re-enacted subsec. (k) without change.

Subsec. (l). Pub. L. 95-113, § 604(b), re-enacted subsec. (l) without change.

Subsec. (m). Pub. L. 95-113, § 705, re-enacted subsec. (m) without change.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 407 of Pub. L. 95-113 provided in part that the re-enactment of subsec. (k) without change by Pub. L. 95-113 is effective for the 1978 through 1981 crops.

Section 604(b) of Pub. L. 95-113 provided in part that the re-enactment of subsec. (l) without change by Pub. L. 95-113 is effective for the 1978 through 1981 crops.

Section 705 of Pub. L. 95-113 provided in part that the re-enactment of subsec. (m) without change by Pub. L. 95-113 is effective for the 1978 through 1981 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title.

§ 1431. Disposition of commodities to prevent waste; eligible recipients; barter; estimates; reprocessing and other charges

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.

(Oct. 31, 1949, ch. 792, title IV, § 416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, § 309, formerly § 302, 68 Stat. 458, renumbered Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(1), 91 Stat. 548, and amended May 28, 1956, ch. 327, title II, § 212, 70 Stat. 203; July 2, 1958, Pub. L. 85-483, § 1, 72 Stat. 286; Aug. 26, 1954, ch. 937, title II, § 402, 68 Stat. 843; July 24, 1959, Pub. L. 86-108, ch. II, § 205(c), 73 Stat. 250; Sept. 27, 1962, Pub. L. 87-703, title II, § 202, 76 Stat. 611; Oct. 8, 1964, Pub. L. 88-638, § 4, 78 Stat. 1038; Nov. 11, 1966, Pub. L. 89-808, § 3(c), 80 Stat. 1538; Apr. 17, 1970, Pub. L. 91-233, 84 Stat. 199; Oct. 30, 1972, Pub. L. 92-603, title IV, § 411(g), 86 Stat. 1492; Sept. 29, 1977, Pub. L. 95-113, title XIII, § 1302(a)(2), 91 Stat. 979.)

AMENDMENTS

1977—Pub. L. 95-113 struck out provision that no person who is eligible (or upon application would be

eligible) to receive supplemental security income under title XVI of the Social Security Act shall be eligible, with certain exceptions, to participate in any program conducted under this section.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1302(b) of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 2012 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 93-233, § 8(b)(2), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 915 Stat. 255, provided that: "The last sentence of section 416 of the Act of October 31, 1949 [this section] (as added by section 411(g) of Public Law 92-603) [see 1972 Amendment Note above] shall not be effective for the period ending September 30, 1978." [Amendment by Pub. L. 93-335, effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note under section 1382 of Title 42, The Public Health and Welfare.] [Section 3 of Pub. L. 95-59 provided in part that the amendment of section 8 of Pub. L. 93-233 by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1431b, 1431c, 1431d, 1446a, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1712, 1721, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b of this title; title 22 section 1922; title 42 sections 1758, 1761, 1762a, 1766, 1777, 3045f.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1358 of this title.

§ 1441. Price support levels

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

[*See main edition for text of (a) to (e)*]

(f) The provisions of this Act relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of section 1347 of this title and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any other provision of this Act, price support shall be made available to cooperators for the 1968 and each subsequent crop of extra long staple cotton, if producers have not disapproved marketing quotas therefor through loans at a level which is not less than 50 per centum or more than 100 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton of such crop at average location in the United States (except that such loan level for extra long staple cotton shall in no event be less than 35 cents per pound) and, in addition, through price-support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 per centum or more than 90 per centum of the parity price for extra long staple cotton as of the month in which the payment rate provided for by this subsection is announced. Such payment with respect to any farm shall be made on the quantity of extra long staple cotton, determined in accordance with regulations prescribed by the Secretary, equal to either (1) for a farm on which the acreage planted to such cotton does not exceed an acreage determined by multiplying the farm acreage allotment by the price-support payment factor established by the Secretary for each crop, the actual production of such cotton on the farm, or (2) for a farm on which the acreage planted to such cotton exceeds an acreage determined by multiplying the farm acreage allotment by the price-support payment factor but does not exceed the farm acreage allotment, the actual production of such cotton on the farm attributable to the number of acres determined by multiplying the farm acreage allotment by such price-support payment factor. The Secretary shall establish the price-support payment factor for each such crop of extra long staple cotton by dividing the 1966 national acreage allotment for such cotton by the national acreage allotment proclaimed for such crop, except that such factor shall not be more than one. The Secretary shall provide for the sharing of price-support payments under this subsection among producers on a farm on the basis of their respective shares in the crop of extra long staple cotton produced on the farm, or the proceeds therefrom. The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection. The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection. Disapproval by producers of the quota proclaimed under section 1347 of this title shall place into effect the provisions of subsection (d)(3) of this section with respect to the extra long staple cotton described in subsection (a) of section 1347 of this title. Nothing contained herein shall affect the authority of the Secretary under section 1422 of this title to make support available for extra long staple cotton in accordance with such section 1422 of this title.

[*See main edition for text of (g)*]

(h) Notwithstanding any other provision of law—

(1) For the 1978 through 1981 crops of rice, the established price for the purpose of making payments under this subsection shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for

the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

(2) The Secretary shall make available, to cooperators in the several States of the United States, loans and purchases for each of the 1978 through 1981 crops of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for each such crop bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level for any of the 1978 through 1981 crops would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may, notwithstanding the foregoing provisions of this paragraph, establish loans and purchases for such crop or crops at such level, not less than $6.31 per hundredweight nor more than the parity price thereof, as the Secretary determines necessary to avoid such consequences. The loans and purchases shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm, as determined in the manner described in the second sentence of paragraph (4)(A) of this subsection.

(3) The Secretary shall make available to cooperators payments for each of the 1978 through the 1981 crops of rice grown in the several States of the United States at a rate equal to the amount by which the established price for the crop of rice exceeds the higher of—

(A) the national average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(B) the loan level determined under paragraph (2) for such crop.

(4)(A) The payments for each such crop shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying that portion of the allotment planted to rice by the yield established for the farm: *Provided*, That an acreage on the farm which the Secretary determines was not planted to rice because of drought, flood, or other natural disaster, or other condition beyond the control of the cooperators shall be considered to be an acreage planted to rice. The yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, other natural disaster, or other condition beyond the control of the cooperators. The total quantity on which payments would otherwise be payable to a cooperator for any crop under this subparagraph shall be reduced by the quantity on which any disaster payment is made to the cooperator on a farm for the crop under this paragraph.

(B) Effective only with respect to the 1978 and 1979 crops of rice, if the Secretary determines that the persons involved in producing rice on a farm are prevented from planting all or any portion of the acreage allotments of producers on the farm or the farm acreage allotment to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to cooperators on a farm in an amount determined by multiplying (i) the number of such acres so affected, by (ii) the yield established for the farm, by (iii) 33⅓ per centum of the established price for rice, except that the Secretary shall make no payment pursuant to this sentence on a farm from which acres were transferred under section 1352(d) of this title, with respect to the transferred acreage.

(C) Effective only with respect to the 1978 and 1979 crops of rice, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice which the persons involved in producing rice on a farm are able to harvest on the acreage allotments of producers on the farm or the farm acreage allotment is less than the result of multiplying 75 per centum of the yield established for the farm by the acreage within the allotment planted to rice for harvest for such crop, the Secretary shall make a farm disaster payment to the cooperators on the farm for the deficiency in production below 75 per centum of the crop at a rate equal to 33⅓ per centum of the established price for the crop.

(D) Any payment made under subparagraphs (B) and (C) of this paragraph with regard to acres transferred under section 1352(d) of this title, shall be calculated with respect to the farm yield established on the farm to which such acres were transferred.

(5) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of rice will, in the absence of such set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments under this subsection, the cooperators on a farm must set aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acre-

age allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago, ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(6) The Secretary may make land diversion payments to cooperators, whether or not a set-aside for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such cooperators. The amounts payable to cooperators under land diversion contracts may be determined through the submission of bids for such contracts by cooperators in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the cooperators and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(7) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the cooperator agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(8) If the operator of the farm desires to participate in the program formulated under this subsection the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection shall be made available to cooperators on such farm only if such cooperators set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the cooperators on the farm, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

(9) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis in payments under this subsection.

(10) In any case in which the failure of a cooperator to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(11) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(12) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(13) The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this subsection.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VI, § 607, title VII, § 702, 91 Stat. 940.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-113, § 607, substituted "Strict Low Middling one and one-sixteenth inch" for "Middling one-inch".

Subsec. (h). Pub. L. 95-113, § 702, added subsec. (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 702 of Pub. L. 95-113 provided in part that subsec. (h) is effective only for the 1978 through 1981 crops of rice.

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, except as otherwise provided, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Term "payments" as used in subsec. (g)(13) of this section shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland

cotton, and rice, see Pub. L. 95-156, set out as a note under section 1307 of this title.

§ 1444. Cotton price support levels

[*See main edition for text of (a) to (e)*]

(f) Production incentives, loan rates, target prices, and set-aside program for 1978 through 1981 crops

(1) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available for the 1978 through 1981 crops of upland cotton to cooperators non-recourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (i) 85 per centum of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during the four-year period ending July 31 in the year in which the loan level is announced, or (ii) 90 per centum of the average, for the first two full weeks of October of the year in which the loan level is announced, of the five lowest priced growths of the growths quoted for Strict Middling one and one-sixteenth inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between such average Northern Europe price quotation of such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9)). The loan level for any crop of cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective, and such level shall not thereafter be changed. The rate of interest on loans to cooperators under the provisions of this paragraph shall be established quarterly by the Commodity Credit Corporation on the basis of the lowest current interest rate on ordinary obligations of the United States. Nonrecourse loans provided for in this subsection, shall, upon request of the cooperator during the tenth month of the loan period for the cotton, be made available for an additional term of eight months: *Provided*, That such request to extend the loan period shall not be approved in a month when the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for the preceding month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six month period: *Provided further*, That whenever the Secretary determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for a month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton subject to the following conditions:

(A) The amount of the special quota shall be equal to twenty-one days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent three months for which data are available;

(B) If a special quota has been established under this subsection during the preceding twelve months, the amount of the quota next established hereunder shall be the smaller of twenty-one days of domestic mill consumption calculated as set forth in clause (A) of this subsection or the amount required to increase the supply to 130 per centum of the demand;

(C) As used in clause (B) of this paragraph, the term "supply" means, using the latest official data of the Bureau of the Census, the United States Department of Agriculture, and the United States Department of the Treasury, the carryover of upland cotton at the beginning of the marketing year (adjusted to four hundred and eighty-pound bales) in which the special quota is established, plus production of the current crop, plus imports to the latest date available during the marketing year, and the term "demand" means the average seasonally adjusted annual rate of domestic mill consumption in the most recent three months for which data are available, plus the larger of average exports of upland cotton during the preceding six marketing years or cumulative exports of upland cotton, plus outstanding export sales for the marketing year in which the special quota is established; and

(D) When a special quota is established under the provisions of this subsection, a ninety-day period from the effective date of the proclamation shall be allowed for entering cotton under such quota.

(2) Notwithstanding the foregoing provisions of this subsection, a special quota period shall not be established that overlaps an existing special quota period.

(3) Notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and to proclamation of the special quota shall become effective October 1, 1977, even though the cotton may be of a crop prior to the 1978 crop.

(4) Payments shall be made for each crop of upland cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(A) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

(B) the loan level determined under paragraph (1) for such crop

is less than the established price per pound times in each case (i) the farm program acreage

for cotton, determined in accordance with paragraph (9) of this subsection (but in no event on a greater acreage than the acreage actually planted to cotton for harvest), multiplied by (ii) the farm program payment yield for cotton determined in accordance with paragraph (10) of this subsection. For the 1978 through 1981 crops, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop: *Provided*, That in no event shall the established price for the 1978 crop be less than 52 cents per pound and for each subsequent crop be less than 51 cents per pound. The total quantity on which payments would otherwise be payable to a producer for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (5)(B) of this subsection.

(5)(A) Effective only with respect to the 1978 and 1979 crops of upland cotton, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for cotton to cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to cotton for harvest (including any acreage which the producers were prevented from planting to cotton or other nonconserving crop in lieu of cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price for the crop.

(B) Effective only with respect to the 1978 and 1979 crops of upland cotton, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of cotton which the producers are able to harvest on any farm is less than the result of multiplying 75 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted to harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 33⅓ per centum of the established price for the crop for the deficiency in production below 75 per centum for the crop.

(6) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

(7) The Secretary shall establish for each of the 1978 through 1981 crops of upland cotton a national program acreage. Such national program acreage shall be announced by the Secretary not later than December 15 of the calendar year preceding the year for which such acreage is established. The Secretary may revise the national program acreage first announced for any crop year for the purpose of determining the allocation factor under paragraph (8) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall announce such revised national program acreage as soon as it has been made. The national program acreage shall be the number of harvested acres the Secretary determines (on the basis of the estimated weighted national average of the farm program yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. The national program acreage shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply, so as to provide for an adequate but not excessive total supply of cotton for the marketing year for the crop for which such national program acreage is established. In no event shall the national program acreage be less than 10 million acres.

(8) The Secretary shall determine a program allocation factor for each crop of upland cotton. The allocation factor (not to exceed 100 per centum) shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop.

(9) The individual farm program acreage for each crop of upland cotton shall be determined by multiplying the allocation factor by the acreage of cotton planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the cotton acreage eligible for payment on a farm shall not be further reduced by application of the allocation factor if the producers reduce the acreage of cotton planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the announcement of the national program acreage made not later than December 15 of the calendar year preceding the year for which such acreage is established. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of cotton planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemp-

tion of farms under the foregoing provisions of this paragraph.

(10) The farm program payment yield for each crop of upland cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years: *Provided,* That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available. Notwithstanding the foregoing provisions of this paragraph, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(11)(A) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments on upland cotton, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage as determined by the Secretary (but not to exceed 28 per centum), of the acreage of upland cotton planted for harvest for the crop year for which a set-aside is in effect. The set-aside acreage shall be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income. The Secretary may limit the acreage planted to upland cotton. Such limitation shall be applied on a uniform basis to all cotton-producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments with respect to that farm.

(B) The Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(C) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(12) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection shall be made available to the producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in

order to alleviate a shortage in the supply of agricultural commodities.

(13) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(14) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(15) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(16) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(17) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall apply to payments under this subsection.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VI, § 602, 91 Stat. 934.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-113 added subsec. (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 602 of Pub. L. 95-113 provided in part that subsec. (f) of this section is effective only with respect to the 1978 through the 1981 crops of upland cotton, except as otherwise provided therein.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS

Subsec. (a) of this section inapplicable to 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 604(c), Sept. 29, 1977, 91 Stat. 939, set out as a note under section 1446d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1427, 1428 of this title.

§ 1444a. Corn and feed grains and cotton programs

[*See main edition for text of* (a)]

(b) Operative status of certain provisions

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided in this subsection (b), the following provisions of law shall become inoperative:

(1) [Section enacted section 1329a of this title.]

(2) [Section enacted section 1444b of this title.]

(3) [Section repealed section 1441(d)(4) of this title.]

[*See main edition for text of* (c) *and* (d)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct a typographical error in the main edition.

§ 1444b. Feed grains; loans and purchases; payments

INAPPLICABILITY TO 1977 THROUGH 1981 CROPS OF FEED GRAINS

Pub. L. 95-113, title V, § 503, Sept. 29, 1977, 91 Stat. 933, provided that: "Section 105 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of feed grains."

INAPPLICABILITY TO 1977 CROP OF FEED GRAINS

Pub. L. 95-113, title V, § 504, Sept. 29, 1977, 91 Stat. 933, provided that: "Except as otherwise provided in section 501 of this Act [enacting section 1444c (a), (b), and (c) of this title effective only for the 1977 through 1981 crops of feed grains], section 105(a) and (b)(1) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [subsecs. (a) and (b)(1) of this section as amended by Pub. L. 91-524, as amended], to be effective only for the 1974 through 1977 crops of feed grains, shall not be applicable to the 1977 crop of feed grains."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1444a, 1444c of this title.

§ 1444c. Loan rates and target prices for 1977 through 1981 feed grain crops

Notwithstanding any other provision of law—

(a) Loans and purchases; reduction

(1) The Secretary shall make available to producers loans and purchases at such level, not less than $2.00 per bushel, for each of the 1977 through 1981 crops of corn, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States: *Provided,* That if the Secretary determines that the average price of corn received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for corn for such marketing year, the Secretary may reduce the level of loans and purchases for corn for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below $1.75 per bushel.

(2) The Secretary shall make available to producers loans and purchases on each of the 1977 through 1981 crops of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments

(1)(A) In addition, the Secretary shall make available to producers payments for each of the 1977 through 1981 crops of corn, grain sorghums, and, if designated by the Secretary, oats and barley, in an amount computed as provided in this subsection. Payments for the 1977 crop shall be computed by multiplying (i) the payment rate, by (ii) the allotment for the farm for such crop, by (iii) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. Payments for each of the 1978 through 1981 crops shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. In no event shall payments be made under this paragraph for any of the 1978 through 1981 crops on a greater acreage than the acreage actually planted to such feed grains.

(B) The payment rate for corn shall be the amount by which the higher of—

(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under subsection (a) of this section for such crop

is less than the established price per bushel. The established price for corn shall be $2.00 per bushel in the case of the 1977 crop, except that the established price shall be $1.70 per bushel with respect to any acreage not planted to corn within the feed grain allotment. The established price for corn shall be $2.10 per bushel in the case of the 1978 crop, and for the 1979 through 1981 crops the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

(C) Notwithstanding the foregoing provisions of this section, in the event the Secretary adjusts the level of loans and purchases for corn in accordance with the proviso in subsection (a)(1) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for corn by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made: *Provided*, That any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 1308 of this title.

(D) The payment rate for grain sorghums and, if designated by the Secretary, oats and barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

(E) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

(2)(A) Effective only with respect to the 1978 and 1979 crops of feed grains, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for feed grains to feed grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage which the producers were prevented from planting to feed grains or other nonconserving crop in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year multiplied by 75 per centum of the farm program payment yield for feed grains established by the Secretary times a payment rate equal to 33⅓ per centum of the established price per bushel.

(B) Effective only with respect to the 1978 and 1979 crops of feed grains, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains which the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

(C) In the case of the 1977 crop of feed grains, disaster payments for prevented planting for feed grains shall be computed as provided in 1444b of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973, and disaster payments for low yield shall be computed in accordance with the formula provided in subparagraph (B) of this paragraph: *Provided*, That producers may elect to receive disaster payments for low yield computed as provided in 1444b of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973: *Provided further*,

That no disaster payments for low yield may be made under this paragraph prior to October 1, 1977.

(c) Fair and equitable sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

(d) Program acreages; proclamation; revision; adjustments; program allocation factor

(1) The Secretary shall proclaim a national program acreage for each of the 1978 through 1981 crops of feed grains. The proclamation shall be made not later than November 15 of each calendar year for the crop harvested in the next succeeding calendar year. The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for feed grains shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that the carryover stocks of feed grains are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

(2) The Secretary shall determine a program allocation factor for each crop of feed grains. The allocation factor for feed grains shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of feed grains be more than 100 per centum nor less than 80 per centum.

(3) The individual farm program acreage for each crop of feed grains shall be determined by multiplying the allocation factor by the acreage of feed grains planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the feed grain acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of feed grains planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than November 15 prior to the year in which the crop is harvested. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of feed grains planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for feed grains, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

(e) Payment yield

The farm program payment yield for each crop of feed grains shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for feed grains was established for the farm in the previous crop year, the Secretary is authorized to determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification

(1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of feed grains will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Any such set-aside shall be announced by the Secretary not later than November 15 of each calendar year for the crop harvested in the next calendar year. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized by this section on corn, grain sorghums, and, if designated by the Secretary, barley and oats, respectively, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the feed grain acreage planted for harvest for the crop year for which the set-aside is in effect. The Secretary may limit the acreage planted to feed grains. Such limitation shall be applied on a uniform basis to all feed grain-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may

permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(2) The Secretary may make land diversion payments to producers of feed grains, whether or not a set-aside for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(g) Defaults

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(h) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 105A, as added Sept. 29, 1977, Pub. L. 95-113, title V, §§ 501, 502, 91 Stat. 928, 930.)

REFERENCES IN TEXT

The Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(C), is Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 221, as amended, section 1(18) of which amended section 1444b of this title by providing for feed grain loans and price support program for 1974 through 1977. For further details see 1973 amendments note set out under section 1444b of this title.

EFFECTIVE DATE; TERMINATION

Sections 501 and 502 of Pub. L. 95-113 provided in part that subsecs. (a), (b), and (c) of this section are effective only for the 1977 through 1981 crops of feed grains, and that subsecs. (d) through (i) of this section are effective only for the 1978 through 1981 crops of feed grains.

§ 1445a. Wheat price support levels

INAPPLICABILITY TO 1977 THROUGH 1981 CROPS OF WHEAT

Pub. L. 95-113, title IV, § 409, Sept. 29, 1977, 91 Stat. 928, provided that: "Section 107 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of wheat."

INAPPLICABILITY TO 1977 CROP OF WHEAT

Pub. L. 95-113, title IV, § 410, Sept. 29, 1977, 91 Stat. 928, provided that: "Except as otherwise provided in section 401 of this Act [enacting section 1445b(a), (b), and (c) of this title effective only for the 1977 through 1981 crops of wheat], section 107 of the Agricultural Act of 1949, as added by the Agricultural Act of 1970,

as amended [this section as amended by Pub. L. 91-524, as amended], to be effective only for the 1974 through 1977 crops of wheat, shall not be applicable to the 1977 crop of wheat."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379b, 1379c, 1445b of this title.

§ 1445b. Loan rates and target prices for 1977 through 1981 wheat crops

Notwithstanding any other provision of law—

(a) Loans and purchases; reduction

The Secretary shall make available to producers loans and purchases at such level, not less than $2.25 per bushel for the 1977 crop of wheat and $2.35 per bushel for each of the 1978 through 1981 crops of wheat, nor, in the case of each of the 1977 through 1981 crops, in excess of 100 per centum of parity, as the Secretary determines will maintain its competitive relationship to other grains in domestic and export markets: *Provided,* That if the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of loans and purchases for wheat for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below $2.00 per bushel.

(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments

(1)(A) In addition, the Secretary shall make available to producers payments for each of the 1977 through 1981 crops of wheat in an amount computed as provided in this subsection. Payments for the 1977 crop shall be computed by multiplying (i) the payment rate, by (ii) the allotment for the farm for such crop, by (iii) the projected yield established for the farm for such crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. Payments for each of the 1978 through 1981 crops shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. In no event shall payments be made under this paragraph for any of the 1978 through 1981 crops on a greater acreage than the acreage actually planted to wheat.

(B) The payment rate for wheat shall be the amount by which the higher of—

(i) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(ii) the loan level determined under subsection (a) of this section for such crop

is less than the established price per bushel. The established price for wheat shall be $2.90 per bushel for the 1977 crop and $3.00 per bushel for the 1978 crop: *Provided,* That for the 1977 crop, the established price shall be $2.47 per bushel with respect to any acreage not planted to wheat within the wheat acreage allotment: *Provided further,* That for the 1978 crop, the established price shall be $3.05 per bushel if the 1978 crop of wheat is 1.8 billion bushels or less. For the 1979 crop, the established price shall be $3.00 per bushel adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the 1979 crop year from (ii) the average adjusted cost of production for the two crop years immediately preceding the 1978 crop year. For the 1980 and 1981 crops, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

(C) Notwithstanding the foregoing provisions of this section, in the event the Secretary adjusts the level of loans and purchases for wheat in accordance with the proviso in subsection (a) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made: *Provided,* That any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 1308 of this title.

(D) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

(2)(A) Effective only with respect to the 1978 and 1979 crops of wheat, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage which the producers were prevented from planting to wheat or other nonconserving crop in lieu of wheat because of drought, flood, or other natural disaster, or other condition

beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price per bushel for wheat.

(B) Effective only with respect to the 1978 and 1979 crops of wheat, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat which the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

(C) In the case of the 1977 crop of wheat, disaster payments for prevented planting shall be computed as provided in section 1445a of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973, and disaster payments for low yield shall be computed in accordance with the formula provided in subparagraph (B) of this paragraph: *Provided,* That producers may elect to receive disaster payments for low yield computed as provided in section 1445a of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973: *Provided further,* That no disaster payments for low yield may be made under this paragraph prior to October 1, 1977.

(c) Fair and equitable sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

(d) Program acreages; proclamation; revision; adjustments; program allocation factor

(1) The Secretary shall proclaim a national program acreage for each of the 1978 through 1981 crops of wheat. The proclamation shall be made not later than August 15 of each calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1978 crop the proclamation shall be made as soon as practicable after September 29, 1977. The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for wheat shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of wheat are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

(2) The Secretary shall determine a program allocation factor for each crop of wheat. The allocation factor for wheat shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop: *Provided,* That in no event shall the allocation factor for any crop of wheat be more than 100 per centum nor less than 80 per centum.

(3) The individual farm program acreage for each crop of wheat shall be determined by multiplying the allocation factor by the acreage of wheat planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided,* That the wheat acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of wheat planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than August 15 prior to the year in which the crop is harvested, or in the case of the 1978 crop, the proclamation first made after September 29, 1977. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of wheat planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for wheat, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

(e) Payment yield

The farm program payment yield for each crop of wheat shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for wheat was established for the farm in the previous crop year, the Secretary is authorized to determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program

payment yields shall balance to the national, State, or county program payment yields.

(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification

(1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such set-aside not later than August 15 prior to the year in which the crop is harvested, except that in the case of the 1978 crop, the announcement shall be made as soon as practicable after September 29, 1977. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized by this section, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest for the crop year for which the set-aside is in effect. The Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(2) The Secretary may make land diversion payments to producers of wheat, whether or not a set-aside for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(g) Defaults

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(h) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 107A, as added Sept. 29, 1977, Pub. L. 95-113, title IV, §§ 401, 402, 91 Stat. 921, 924.)

REFERENCES IN TEXT

The Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(C), is Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 221, as amended, section 1(8) of which amended section 1445a of this title by providing for price support program for 1974 through 1977. For further details see 1973 Amendments note set out under section 1445a of this title.

EFFECTIVE DATE; TERMINATION

Sections 401 and 402 of Pub. L. 95-113 provided in part that subsecs. (a), (b), and (c) of this section are effective only for the 1977 through 1981 crops of wheat, and that subsecs. (d) through (i) of this section are effective only for the 1978 through 1981 crops of wheat.

§ 1445c. Price support program for 1978 through 1981 crops of peanuts

Notwithstanding any other provision of law—

(a) Support levels for quota peanuts; adjustments

The Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts for each of the 1978 through 1981 crops at such levels as the Secretary finds appropriate, taking into consideration the eight factors specified in section 1421(b) of this title, and any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning January 1 and ending December 31 of the calendar year immediately preceding the marketing year for which the level of support is being determined, but not less than $420 per ton. The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage: *Provided*, That the Secretary may make adjustments for location of peanuts and such other adjustments as are authorized by section 1423 of this title.

(b) Support levels for additional peanuts

The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1978 through 1981 crops. In determining support levels, the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets. The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for which the level of support is being determined.

(c) Warehouse storage loans; pools; records; net gains

(1) In carrying out subsections (a) and (b) of this section, the Secretary may make warehouse storage loans available in each of the three producing areas (described in 7 CFR § 1446.4 (1977)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities under this section and section 1359 of this title. Such loans shall include, in addition to the price support value of the peanuts, such costs as such association reasonably may incur in carrying out such responsibilities in its operations and activities under this section and section 1359 of this title.

(2) The Secretary may require that each such association establish pools and maintain complete and accurate records by type for quota peanuts handled under loans and for additional peanuts produced without a contract between handler and producer described in section 1359(i) of this title. Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed in proportion to the value of the peanuts placed in the pool by each grower. Net gains for peanuts in each pool shall consist of (A) for quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool plus an amount from the pool for additional peanuts to the extent of the net gains from the sale for domestic food and related uses of additional peanuts in the pool for additional peanuts equal to any loss on disposition of all peanuts in the pool for quota peanuts and (B) for additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (A) of this paragraph. Notwithstanding any other provision of this subsection, any distribution of net gains on additional peanuts of any type to any producer shall be reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts of a different type placed under loan by such grower.

(Oct. 31, 1949, ch. 792, title I, § 108, as added Sept. 29, 1977, Pub. L. 95-113, title VIII, § 807, 91 Stat. 947.)

EFFECTIVE DATE; TERMINATION

Section 807 of Pub. L. 95-113 provided in part that this section is effective for the 1978 through 1981 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359 of this title.

§ 1445d. Special wheat acreage grazing and hay program for 1978 through 1981 crop years

Notwithstanding any other provision of law—

(a) Authorization for program; acreage designation; payment

The Secretary is authorized to administer a special wheat acreage grazing and hay program (hereinafter in this section referred to as the "special program") in each of the crop years 1978 through 1981. Under the special program, a producer shall be permitted to designate, under such regulations as established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever is greater, which shall be planted to wheat (or

some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program shall receive a payment as provided in subsection (c) of this section.

(b) Specific farm acreage

Any producer who elects to participate in the special program under this section shall designate the specific acreage on the farm which is to be used for the purposes set forth in subsection (a) of this section. No crop other than hay may be harvested from acreage included in the special program.

(c) Determination of payment

The Secretary shall pay the producer participating in the special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The producer shall not be eligible for any other payment or price support on any portion of the acreage for the farm which the producer elects to include in the special program.

(d) Other acreage set-aside programs

Acreage included in the special program shall be in addition to any acreage included in any acreage set-aside program otherwise provided for by law.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the special program through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 109, as added Sept. 29, 1977, Pub. L. 95-113, title X, § 1004, 91 Stat. 950.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445e. Producer storage program for wheat and feed grains

(a) Formulation and administration; safeguards

The Secretary shall formulate and administer a program under which producers of wheat and, in the discretion of the Secretary, producers of feed grains will be able to store wheat and feed grains when such commodities are in abundant supply and extend the time period for their orderly marketing. The Secretary shall establish safeguards to assure that wheat and feed grains held under the program shall not be utilized in any manner to unduly depress, manipulate, or curtail the free market. The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

(b) Terms and conditions; waiver

In carrying out the producer storage program, the Secretary may provide original or extended price support loans for wheat and feed grains at the same level of support as provided by this Act under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time in order to promote orderly marketing when wheat or feed grains are in abundant supply. Among such other terms and conditions as the Secretary may prescribe by regulation, the program shall provide for (1) repayment of such loans in not less than three years nor more than five years; (2) payment to producers of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program; (3) a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges in the event such loans are repaid by producers before the market price for wheat or feed grains has reached the price levels specified in clause (5) of this subsection; (5) conditions designed to induce producers to redeem and market the wheat or feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price of wheat has attained a specified level which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains, as determined by the Secretary; and (6) conditions prescribed by the Secretary under which the Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever the Secretary determines that the market price for the commodity is not less than 175 per centum of the then current level of price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act.

(c) Announcement

The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcement, the Secretary shall specify the quantity of wheat or feed grains to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of such commodities. The quantity of wheat shall not be less than three hundred million bushels nor more than seven hundred million bushels: *Provided,* That such maximum amount may be adjusted by the Secretary as necessary to meet such commitments as may be assumed by the United States pursuant to an international agreement containing provisions relating to grain reserves.

(d) Restriction

Notwithstanding any other provision of law, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 150 per centum of the then current level of price support for such commodity: *Provided*, That such restriction shall not apply to—

(1) sales of such commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; and

(2) sales or other disposals of such commodities under (A) the fifth and sixth sentences of section 1427 of this title, (B) the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), and (C) section 1427a of this title.

(e) Grain reconcentration

The Secretary may, with the concurrence of the owner of grain stored under the program authorized by this section, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary deems to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations which assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by his commitment.

(f) Purchases; daily list

Whenever grain is stored under the provisions of this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such commodities which the Commodity Credit Corporation owns or controls. Such purchases to offset sales shall be made within two market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(g) Commodity Credit Corporation

The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. In addition, to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(Oct. 31, 1949, ch. 792, title I, § 110, as added Sept. 29, 1977, Pub. L. 95-113, title XI, § 1101, 91 Stat. 951.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86-299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445f. International Emergency Food Reserve

The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.

(Oct. 31, 1949, ch. 792, title I, § 111, as added Sept. 29, 1977, Pub. L. 95-113, title XI, § 1102, 91 Stat. 953.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated nonbasic agricultural commodities

The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for tung nuts, soybeans, honey, milk, sugar beets, and sugar cane as follows:

[*See main edition for text of* (*a*) *and* (*b*)]

(c) The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning on October 1, 1977, and ending March 31, 1979, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk.

(d) Effective for the period beginning on October 1, 1977, and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. The Secretary is authorized to adjust the support price of milk at the beginning of each remaining quarter in the marketing year to reflect any substantial change in the parity index

during such quarterly period. Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable.

(e) The price of the 1978 through 1981 crops of soybeans shall be supported through loans and purchases at such levels as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors: *Provided*, That notwithstanding the provisions of section 1309 of this title, the Secretary shall not require a set-aside of soybean acreage as a condition of eligibility for price support for any commodity supported under the provisions of this Act.

(f)(1) The price of the 1977 and 1978 crops of sugar beets and sugar cane, respectively, shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 per centum nor less than 52.5 per centum of the parity price therefor: *Provided*, That the support level may in no event be less than 13.5 cents per pound raw sugar equivalent. In carrying out the price support program authorized by this subsection, the Secretary shall establish minimum wage rates for agricultural employees engaged in the production of sugar.

(2) Notwithstanding any other provision of law, the Secretary may suspend the operation of the price support program authorized by this subsection whenever the Secretary determines that an international sugar agreement is in effect which assures the maintenance in the United States of a price for sugar not less than 13.5 cents per pound raw sugar equivalent.

(3) Nothing in this subsection shall affect the authority of the Secretary to establish under any other provision of law a price support program for that portion of the 1977 crop of sugar cane and sugar beets marketed prior to the implementation of the program authorized by this subsection.

(As amended Sept. 29, 1977, Pub. L. 95-113, title II, § 203, title IX, §§ 901, 902, 91 Stat. 920, 949.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-113, §§ 901(1), 902(1), inserted references to soybeans, sugar beets, and sugar cane in the provisions preceding subsec. (a).

Subsec. (c). Pub. L. 95-113, § 203(1), substituted the period Oct. 1, 1977, through Mar. 31, 1979, for the period Aug. 10, 1973, through Mar. 31, 1975, as the period during which the price of milk shall be supported at not less than 80 per centum of parity.

Subsec. (d). Pub. L. 95-113, § 203(2), added subsec. (d).

Subsec. (e). Pub. L. 95-113, § 901(2), added subsec. (e).

Subsec. (f). Pub. L. 95-113, § 902(2), added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 901 of Pub. L. 95-113 provided in part that the amendment by section 901 of Pub. L. 95-113 is effective only with respect to the 1978 through 1981 crops of soybeans.

Section 902 of Pub. L. 95-113 provided in part that the amendment by section 902 of Pub. L. 95-113 is effective only with respect to the 1977 and 1978 crops of sugar beets and sugar cane.

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, except as otherwise specifically provided, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1446a. Dairy products; availability through Commodity Credit Corporation

As a means of increasing the utilization of dairy products (including for purposes of this section, milk) upon the certification by the Administrator of Veterans' Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Administrator of Veterans' Affairs; needs; report to Congress

The Commodity Credit Corporation until December 31, 1981, shall make available to the Administrator of Veterans' Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Administrator certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Administrator shall report every six months to the Committees on Agriculture of the Senate and House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress

The Commodity Credit Corporation until December 31, 1981, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certifies can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committees on Agriculture of the Senate and the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

[*See main edition for text of* (c) *and* (d)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title II, § 204, 91 Stat. 920.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-113 extended the availability of dairy products from Dec. 31, 1977, to Dec. 31, 1981.

CHANGE OF NAME

The Committee on Agriculture of the Senate, referred to in par. (b), was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1446d. Price support levels for cottonseed and soybeans

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS

Pub. L. 95-113, title VI, § 604(c), Sept. 29, 1977, 91 Stat. 939, provided that: "Sections 103(a) and 203 of the Agricultural Act of 1949, as amended [section 1444(a) of this title and this section] shall not be applicable to the 1978 through 1981 crops."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1447. Price support levels for other nonbasic agricultural commodities

The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in sections 1446, 1446a, and 1446d of this title at a level not in excess of 90 per centum of the parity price for the commodity. The Secretary is authorized to make price support available under sections 1447 to 1449 of this title for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for any other nonbasic commodity not designated in sections 1446, 1446a, and 1446d of this title, except that such authority shall terminate with respect to any commodity, other than those listed in this sentence, at the end of any crop year in which the net outlays for the commodity exceed $50 million.

(As amended Sept. 29, 1977, Pub. L. 95-113, title X, § 1003(a), 91 Stat. 950.)

AMENDMENTS

1977—Pub. L. 95-113 added provisions authorizing the Secretary to make price support available for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and, in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for other nonbasic undesignated commodities.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 1003(a) of Pub. L. 95-113 provided in part that the amendment of Pub. L. 95-113 is effective only with respect to the 1978 through 1981 crops.

OTHER PRICE SUPPORT PROGRAMS IN EFFECT ON SEPTEMBER 29, 1977

Section 1003(b) of Pub. L. 95-113 provided that: "The amendment made by this section [amending this section] to the Agricultural Act of 1949 shall not be operative in any manner with respect to any price support program in effect on the date of enactment of this Act [Sept. 29, 1977]."

§ 1448. Price support levels for storable nonbasic agricultural commodities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1447, 1449 of this title.

§ 1449. Determination of price support level

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1447 of this title.

CHAPTER 36—CROP INSURANCE

§ 1504. Capital stock of Corporation; subscription by United States; authorization of appropriations

(a) The Corporation shall have a capital stock of $200,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.

[*See main edition for text of* (b) *and* (c)]

(As amended June 16, 1977, Pub. L. 95-47, 91 Stat. 228; Nov. 15, 1977, Pub. L. 95-181, § 1, 91 Stat. 1373.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-181 substituted "$200,000,000" for "$150,000,000".

Pub. L. 95-47 substituted "$150,000,000" for "$100,000,000".

§ 1508. Agricultural commodity crop insurance

STUDY OF ALTERNATIVE ALL-RISK, ALL-CROP INSURANCE PROGRAMS

Pub. L. 95-181, § 2, Nov. 15, 1977, 91 Stat. 1373, provided that: "The Secretary of Agriculture shall undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop losses in floods, droughts, and other natural disasters, including alternative methods of administration, Federal assistance, reinsurance, rate setting and private insurance industry involvement, as well as variations on the existing crop insurance program, and such other matters as he determines are relevant, and shall report his findings and recommendations to the President for transmission to the Congress by March 1, 1978. The Secretary shall consult with the Secretary of Housing and Urban Development on behalf of the Federal Insurance Administration; the Secretary of Treasury and representatives of the private insurance industry in the course of the study and shall identify the views of each in forwarding his findings and recommendations to the President. Such sums, not exceeding $200,000, as are appropriated for fiscal year

1978 under section 504 of the Federal Crop Insurance Act, as amended [section 1504 of this title], may be utilized to conduct such a study."

CHAPTER 38—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

§ 1622. Duties of Secretary relating to agricultural products

The Secretary of Agriculture is directed and authorized:

[See main edition for text of (a) and (b)]

(c) Improvement of standards of quality, condition, etc.; standard of quality for ice cream

To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices. Within thirty days after September 29, 1977, the Secretary shall by regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for "ice cream".

[See main edition for text of (d) to (n)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title II, § 206, 91 Stat. 920.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-113 added provisions relating to the setting of a standard of quality for ice cream.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

§ 1623. Minimum sum for contracting

REPEATED

Pub. L. 95-97, title VI, § 603, Aug. 12, 1977, 91 Stat. 828.

CHAPTER 41—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE

SUBCHAPTER II—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

Sec.
1712. Human rights [New].
(a) Agreements prohibited with countries violating internationally recognized human rights; exception for agreements directly benefiting needy people.
(b) Presidential demonstration that agreement will directly benefit needy people of country.
(c) Investigations by international organizations.
(d) Presidential report.
1713. Priority for financing sales of food and fiber commodities [New].
1714. High protein, blended, and fortified foods [New].
(a) Congressional declaration of policy.
(b) Waiver of repayment.
(c) Impact on other commercial and concessional sales of whole grains.
1715. Sales Procedure [New].

SUBCHAPTER III-A—FOOD FOR DEVELOPMENT PROGRAM [NEW]

1727. Congressional declaration of purpose.
1727a. Participation of developing countries.
(a) Presidential designation of countries as eligible.
(b) Criteria for eligibility.
(c) Minimum aggregate value of projects; waiver of minimums.
1727b. Multiyear utilization proposal.
(a) Formulation; content.
(b) Integration with other forms of development assistance.
(c) Non-replacement of other programs.
1727c. Credit.
(a) Commodity Credit Corporation.
(b) Payment by recipient government.
(c) Waiver.
1727d. Funds generated from sale of agricultural commodities.
1727e. Report to President.
1727f. Annual Presidential review.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 13 section 301; title 16 section 1537; title 22 sections 1922, 2151, 2151a, 2167, 2353, 2354, 2362, 2370, 2394, 2455, 2775.

§ 1691. Declaration of policy

USE OF NONPRICE-SUPPORTED COMMODITIES

Pub. L. 95-113, title XII, § 1209, Sept. 29, 1977, 91 Stat. 957, provided that: "It is the sense of Congress that there be no discrimination between 'price-supported' and 'nonprice-supported' commodities in the programming of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [which enacted this chapter and amended sections 1427 and 1431 of this title]."

SPECIAL TASK FORCE

Pub. L. 95-113, title XII, § 1210, Sept. 29, 1977, 91 Stat. 957, provided that:

"(a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [which enacted this chapter and amended sec-

tions 1427 and 1431 of this title]. Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

"(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I [subchapter II of this chapter] allocation criteria and procedures, quality, control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and organizations to which services are contracted under Public Law 480.

"(c) Not later than eighteen months following enactment of this Act [Sept. 29, 1977], the Secretary of Agriculture shall transmit to Congress the report of such task force, along with administrative actions the Secretary has taken or intends to take as a result of such report, and recommendations, if any, for legislative changes."

SUBCHAPTER I—BARTER

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1703, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1736b, 1736e of this title; title 10 section 2681.

§ 1692. Bartering authority of Secretary; exchange for strategic materials and materials for other purposes; cooperation of agencies; assistance to cooperatives; limitations

Codification

Section 303 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, set out in the credit of this section, was renumbered 310 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

SUBCHAPTER II—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1724, 1727a, 1727b, 1727c, 1732, 1736a, 1736b, 1736c, 1736e, 1743, 1762 of this title; title 10 section 2681; title 22 sections 2103, 2291.

§ 1702. Financing sale and exportation of agricultural commodities from private or public stocks

For the purpose of carrying out agreements concluded under this chapter and sections 1427 and 1431 of this title the Commodity Credit Corporation is authorized to finance the sale and exportation of agricultural commodities whether from private stocks or from stocks of the Commodity Credit Corporation and, when requested by the purchaser of such commodities, may serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of such commodities.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 201(a), 91 Stat. 545; Sept. 29, 1977, Pub. L. 95-113, title XII, § 1201, 91 Stat. 955.)

Amendments

1977—Pub. L. 95-113 added provisions authorizing the Corporation, when requested by the purchaser of commodities, to serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of the commodities.

Pub. L. 95-88 struck out the proviso prohibiting the financing by the Commodity Credit Corporation of the sale and export of agricultural commodities where the exporter had engaged in any sales, trade, or commerce with North Vietnam, or with any resident thereof, or which owned or controlled any company so engaged either directly or indirectly, and struck out an additional proviso requiring that financing applications be accompanied by statements in which were listed the branches, etc., in which the applicant had a controlling interest and the companies which had a controlling interest in the applicant company.

Effective Date of 1977 Amendments

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Section 215 of Pub. L. 95-88 provided that: "The provisions of this title [enacting sections 1712 to 1714 and 1727 to 1727f of this title, amending sections 1427, 1431, 1692, 1702, 1703, 1706, 1711, 1721, 1722, 1723, 1726, 1731, and 1736b of this title, and enacting provisions set out as notes under sections 1708 and 1722 of this title] shall become effective October 1, 1977."

Section Referred to in Other Sections

This section is referred to in section 1707 of this title.

§ 1703. Agreements with friendly countries and organizations; terms and conditions

In exercising the authorities conferred upon him by this subchapter, the President shall

[*See main edition for text of* (a)]

(b) Transition from sales for foreign currencies to sales for dollars

take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sales is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 2161 of title 22, and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by December 31, 1971: *Provided*, That, except where he determines that it would be inconsistent with the objectives of this chapter and sections 1427 and 1431 of this title, the President shall determine the amount of foreign currencies needed for the uses specified in subsections (a), (b), (c), (e), and (h) of section 1704 and in subchapters I and III-A of this chapter and sections 1427 and 1431 of this title, and the agreements for such credit sales shall provide for payment of such amounts in dollars or in foreign currencies upon delivery of the agricultural commodities. Such payment may be considered as an advance payment of the earliest installments;

[*See main edition for text of* (c)]

(d) Sales agreements with countries friendly to United States; reports to Congress; aggressor countries

make sales agreements only with those countries which he determines to be friendly to the United States: *Provided*, That the President shall periodically review the status of those

countries which are eligible under this subsection and report the results of such review to the Congress. As used in this chapter and sections 1427 and 1431 of this title, "friendly country" shall not include (1) any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement, or (2) for the purpose only of sales of agricultural commodities for foreign currencies under this subchapter, any country or area dominated by a Communist government. Notwithstanding any other act, the President may enter into agreements for the sale of agricultural commodities for dollars on credit terms under this subchapter with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this chapter and sections 1427 and 1431 of this title shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;

[*See main edition for text of (e) to (q)*]

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, §§ 201(b), 211(b)(1), 91 Stat. 545, 551.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88, § 211(b)(1), substituted "and in subchapters I and III-A of this chapter and sections 1427 and 1431, of this title" for "and in section 1706(b)(2) of this title" following "uses specified in subsections (a), (b), (c), (e), and (h) of section 1704".

Subsec. (d). Pub. L. 95-88, § 201(b), struck out provisions that "friendly country" not include, for the purpose only of sales of agricultural commodities under this subchapter, any nation which sold or furnished or permitted ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they were governed by a Communist regime: *Provided*, That this exclusion from the definition of "friendly country" could be waived by the President if he determined that such waiver was in the national interest and reported such determination to the Congress within 10 days of the date of such determination, and struck out provisions that "friendly country" also not include, for the purposes only of sales under this subchapter, the United Arab Republic, unless the President determined that such sale was in the national interest of the United States, that no sales to the United Arab Republic be based upon the requirements of that nation for more than one fiscal year, and that the President keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707, 1708, 1727d of this title.

§ 1706. Payment for commodities

[*See main edition for text of (a)*]

(b) Sales agreement provisions for use of proceeds for prescribed purposes and programs; payments; priority to sales agreements with countries conforming to certain requirements in their agricultural development plans

[*See main edition for text of (1)*]

(2) Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in section 1736(a)(1) of this title, in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 1709 of this title, and which programs are directed at and likely to achieve the policy objectives of sections 2151a and 2151b of title 22 and are consistent with the policy objectives of this chapter and sections 1427 and 1431 of this title, pursuant to agreements between the United States and foreign governments under which uses of such proceeds shall be made for such purposes.

[*See main edition for text of (3)*]

(As amended Aug. 3, 1977, Pub. L. 95-88, Title II, § 211(b)(2), 91 Stat. 551.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-88 struck out provisions that uses of proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning be deemed payments for the purposes of section 1703(b) of this title and that such payments be described in the reports required by section 1736b of this title and section 2417 of title 22.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1708. Ocean transportation costs

STUDY OF PAYMENTS OF OCEAN FREIGHT DIFFERENTIALS

Pub. L. 95-88, title II, § 214, Aug. 3, 1977, 91 Stat. 552, provided that: "The President shall conduct a comprehensive study of payment of ocean freight differentials between United States-flag rates and foreign-flag rates when United States-flag vessels are required to be used, in accordance with section 901(b) of the Merchant Marine Act, 1936 [section 1241(b) of Title 46, Shipping], for the shipment of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 [which enacted this chapter and amended sections 1427 and 1431 of this title] and shall recommend possible changes in the method of reimbursement which is now borne by the Commodity Credit Corporation. Such study shall be completed within 180 days after the date of enactment of this section [Aug. 3, 1977] and submitted to the fol-

lowing committees of the Congress: the Senate Committee on Agriculture, Nutrition, and Forestry; the Senate Committee on Commerce, Science, and Transportation; the House Committee on Agriculture; the House Committee on Merchant Marine and Fisheries; and the House Committee on International Relations."

§ 1709. Self-help measures

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1726, 1727, 1732, 1736c, 1736e, 1743 of this title.

§ 1711. Assistance to most seriously affected countries; poverty criterion; report to Congress

Not more than 25 per centum of the food aid commodities provided under this subchapter in each fiscal year shall be allocated and agreed to be delivered to countries other than those which meet the poverty criterion established for International Development Association financing and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that (1) the use of such food assistance is required for humanitarian food purposes, or (2) the quantity of commodities which would be required to be allocated under this section to countries which meet the International Development Association poverty criterion could not be used effectively to carry out the humanitarian or development purposes of this subchapter. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries which meet the International Development Association poverty criterion and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 202, 91 Stat. 545.)

AMENDMENTS

1977—Pub. L. 95-88 substituted references to countries which meet the poverty criterion established for International Development Association financing for references to countries whose annual per capita gross national product is $300 or less, struck out provision for Congressional disapproval of a Presidential certification of need, struck out provision covering the use of World Bank data in determining per capita gross national product, and added authority for the President to certify to Congress that the quantity of commodities which would be required to be allocated under this section to countries which meet the International Development Association poverty criterion could not be used effectively to carry out the humanitarian or development purposes of this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1712. Human rights

(a) Agreements prohibited with countries violating internationally recognized human rights; exception for agreements directly benefiting needy people

No agreement may be entered into under this subchapter to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such agreement will directly benefit the needy people in such country. An agreement will not directly benefit the needy people in the country for purposes of the preceding sentence unless either the commodities themselves or the proceeds from their sale will be used for specific projects or programs which the President determines would directly benefit the needy people of that country. The agreement shall specify how the projects or programs will be used to benefit the needy people and shall require a report to the President on such use within 6 months after the commodities are delivered to the recipient country.

(b) Presidential demonstration that agreement will directly benefit needy people of country

To assist in determining whether the requirements of subsection (a) of this section are being met, the Committee on Agriculture, Nutrition, and Forestry of the Senate or the Committee on International Relations of the House of Representatives may require the President to submit in writing information demonstrating that an agreement will directly benefit the needy people in a country.

(c) Investigations by international organizations

In determining whether or not a government falls within the provisions of subsection (a) of this section, consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

(d) Presidential report

The President shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, in the annual presentation materials on planned programing of assistance under this chapter and sections 1427 and 1431 of this title, a full and complete report regarding the steps he has

taken to carry out the provisions of this section.

(July 10, 1954, ch. 469, title I, § 112, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 203, 91 Stat. 545.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1713. Priority for financing sales of food and fiber commodities

In the allocation of funds made available under this subchapter, priority shall be given to financing the sale of food and fiber commodities.

(July 10, 1954, ch. 469, title I, § 113, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 204, 91 Stat. 546.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1714. High protein, blended, and fortified foods

(a) Congressional declaration of policy

The Congress declares it to be the policy of the United States to assist developing countries in the transition from food assistance recipients to economic self-sufficiency and to assist those nations which have been recipients of high protein, blended, or fortified foods under subchapter III of this chapter to continue to combat hunger and malnutrition among the lower income segments of their population, especially children, through the continued provision of these foods under this subchapter.

(b) Waiver of repayment

In implementing the policy declared in subsection (a), the President, in entering into agreements for the sale of high protein, blended, or fortified foods under this subchapter with countries which (1) give assurance that the benefits of any waiver under this section will be passed on to the individual recipients of such foods, and (2) have a reasonable potential for transition to commercial purchasers of such foods, may make provisions for a waiver of repayment of up to that part of the product value which is attributable to the costs of processing, enrichment, or fortification.

(c) Impact on other commercial and concessional sales of whole grains

In implementing this section, due care shall be taken to minimize its impact on other commercial and concessional sales of whole grains and, where feasible, agreements under this subchapter utilizing the authority contained in this section will provide for sales of such commodities.

(July 10, 1954, ch. 469, title I, § 114, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 205, 91 Stat. 546.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1715. Sales procedure

(a) No purchases of food commodities shall be financed under this subchapter unless they are made on the basis of an invitation for bid publicly advertised in the United States and on the basis of bid offerings which shall conform to such invitation and shall be received and publicly opened in the United States. All awards in the purchase of commodities financed under this subchapter shall be consistent with open, competitive, and responsive bid procedures, as determined by the Secretary of Agriculture. Commissions, fees, or other payments to any selling agent shall—unless waived by the Secretary—be prohibited in any purchase of food commodities financed under this subchapter.

(b) Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid or to be paid by any supplier of a commodity or ocean transportation financed by the Commodity Credit Corporation under this subchapter, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary of Agriculture by the supplier of the commodity or ocean transportation. The report shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made. The Secretary shall maintain such information for public inspection, publish a report thereof annually, and forward a copy of the report to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Any supplier of a commodity or ocean transportation who fails to file such a report or who files a false report shall be ineligible to furnish—directly or indirectly—commodities or ocean transportation financed under this subchapter for a period of five years.

(July 10, 1954, ch. 469, title I, § 115, as added Sept. 29, 1977, Pub. L. 95-113, title XII, § 1202, 91 Stat. 955.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SUBCHAPTER III—FAMINE RELIEF AND OTHER ASSISTANCE AND DONATIONS OF FOOD BOTH ON A GOVERNMENT-TO-GOVERNMENT BASIS AND THROUGH VOLUNTARY ORGANIZATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1714, 1732, 1736b, 1736c, 1736e, 1743 of this title; title 10 section 2681.

§ 1721. Statement of purpose; availability of commodities; minimum quantity for distribution

[*See main edition for text of* (a)]

(b) The minimum quantity of agricultural commodities distributed under this subchapter—

(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

(2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and

(3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided,* That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter and sections 1427 and 1431 of this title pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 206, 91 Stat. 547.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88 substituted provisions increasing and setting specific minimums for commodities to be distributed for fiscal years 1978 through 1980, for 1981, and for fiscal year 1982 and each fiscal year thereafter, for provisions which had set a fixed minimum of 1,300,000 tons of agricultural commodities each fiscal year, of which the minimum to be distributed through nonprofit voluntary agencies and the World Food Program was 1,000,000 tons each fiscal year.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1722. Furnishing commodities through friendly governments, agencies, and organizations; use of nonprofit voluntary agencies to extent practicable; identification of origin of commodities; assistance for community and other self-help activities; displacement of dollar sales

(a) The President may furnish commodities for the purposes set forth in section 1721 of this title through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the world food program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. If no United States nonprofit voluntary agency registered with and approved by the Advisory Committee on Voluntary Foreign Aid is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)(1) Assistance to needy persons under this subchapter shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2) In order to assure that food commodities made available under this subchapter are used effectively, indigenous workers shall be employed, to the extent feasible, to provide information on nutrition and conduct food distribution programs in the most remote villages.

(3) In distributing food commodities under this subchapter, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, §§ 207, 208(a), 91 Stat. 547.)

AMENDMNNTS

1977—Subsec. (a). Pub. L. 95-88, §§ 207(1), (2), 208(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, struck out requirement that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance, and added provisions authorizing the President to utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee on Voluntary Foreign Aid if no United States nonprofit voluntary agency registered with and approved by the Advisory Committee is available.

Subsec. (b). Pub. L. 95-88, § 207(3), added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

REGISTRATION OF FOREIGN NONPROFIT VOLUNTARY AGENCIES

Section 208(b) of Pub. L. 95-88 provided that: "For purposes of implementing the amendment made by subsection (a) [providing for the utilization by the President of foreign nonprofit voluntary agencies], the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit voluntary agencies."

§ 1723. Payment of costs and charges

The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this subchapter costs for packaging, enrichment, preservation, and fortification; processing transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 209, 91 Stat. 548.)

AMENDMENTS

1977—Pub. L. 95-88 substituted "transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports" for ", or, in the case of landlocked countries, transportation from United States ports to designated points of entry abroad".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1724. Authorization of appropriations for reimbursement of Commodity Credit Corporation; limitation; funds for purchase of foreign currencies

Programs of assistance shall not be undertaken under this subchapter during any calendar year which call for an appropriation of more than $750,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this subchapter in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year. In addition to other funds available for such purposes under any other Act, funds made available under this subchapter may be used in an amount not exceeding $7,500,000 annually to purchase foreign currencies accruing under subchapter II of this chapter in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance or any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this subchapter are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1203, 91 Stat. 956.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "$750,000,000" for "$600,000,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1726. Limitation on use of foreign currencies; reports to Congress

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this subchapter shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 1709 of this title, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with this section in the reports required under section 1736b of this title and section 2417 of title 22.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 210, 91 Stat. 548.)

AMENDMENTS

1977—Pub. L. 95-88 substituted "used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries" for "used for purposes specified in section 2151a of title 22".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SUBCHAPTER III-A—FOOD FOR DEVELOPMENT PROGRAM [NEW]

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1703, 1736b of this title.

§ 1727. Congressional declaration of purpose

(a) In order to establish a strong relationship between United States food assistance and efforts by developing countries to increase the availability of food for the poor in such countries and improve in other ways the quality of their lives, the President is authorized to encourage the use of the resources provided by the concessional financing of agricultural commodities under this chapter and sections 1427 and 1431 of this title for agricultural and rural development, including voluntary family planning, health, and nutrition programs, by permitting the funds accruing from the local sale of such commodities which are used for such purposes to be applied against the repayment obligation of governments receiving concessional financing under this chapter and sections 1427 and 1431 of this title. The agreement between the United States Government and an eligible developing country government which provides for repayment of the obligation to the United States accruing from the concessional sale of United States agricultural commodities by the use of funds from the sale of such commodities in the participating country for specified development purposes shall be called a Food for Development Program.

(b) The overall goal of assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be to increase the access of the poor in the recipient country to a growing and improving food supply through activities designed to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country. Assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be used for programs of agricultural development, rural development, nutrition, health services, and population planning, and the program described in section 1736(a)(1) of this title, in those countries which are undertaking (or are seriously prepared to undertake in connection with the provision of agricultural commodities under this chapter and sections 1427 and 1431 of this title) self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 1709 of this title, when such programs are directed at and likely to achieve the policy objectives of sections 2151a and 2151b of title 22 and are consistent with the policy objectives of this chapter and sections 1427 and 1431 of this title. Particular emphasis should be placed on activities which effectively assist small farmers, tenants, sharecroppers, and landless agricultural laborers, by expanding their access to the rural economy through services and institutions at the local level, and otherwise providing opportunities for the poor who are dependent upon agriculture and agriculturally related activities to better their lives through their own efforts.

(July 10, 1954, ch. 469, title III, § 301, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 548.)

Prior Provisions

A prior section 301 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1427 of this title, was renumbered section 308 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

Effective Date

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727a. Participation of developing countries

(a) Presidential designation of countries as eligible

Whenever the President, in consultation with the government of a developing country, determines that such developing country meets the criteria specified in subsection (b) of this section and could benefit from the sale of United States agricultural commodities (including processed and blended foods) for the purposes of generating funds or distributing such commodities for agricultural and rural development, and improving food distribution and use within such country, the President may designate such country as eligible for a Food for Development Program.

(b) Criteria for eligibility

In order to be eligible for a Food for Development Program under this section, a country must (1) have a need for external resources to improve its food production, marketing, distribution, and storage systems; (2) meet the criterion used to determine basic eligibility for development loans of the International Development Association of the International Bank for Reconstruction and Development; (3) have the ability to utilize effectively the resources made available by the sale of food commodities under this section for the purposes specified in clause (1) of this subsection; and (4) indicate the willingness to take steps to improve its food production, marketing, distribution, and storage systems.

(c) Minimum aggregate value of projects; waiver of minimums

(1) Except as provided in paragraph (2) of this subsection, the aggregate value of all agreements entered into under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title—

(A) for fiscal year 1978, shall be not less than 5 percent,

(B) for fiscal year 1979, shall be not less than 10 percent, and

(C) for fiscal year 1980 and each fiscal year thereafter, shall be not less than 15 percent,

of the aggregate value of all agreements entered into under subchapter II of this chapter for such fiscal year.

(2) The President may waive the requirement of paragraph (1) of this subsection with respect to a fiscal year if he determines that there are

an insufficient number of agricultural and rural development projects which qualify for assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title and that therefore the humanitarian purposes of this chapter and sections 1427 and 1431 of this title would be better served by furnishing financing under other provisions of this chapter and sections 1427 and 1431 of this title. Any such waiver shall be reported to the Congress, together with a detailed statement of the reasons for the lack of acceptable projects and a detailed description of efforts by the United States Government to assist eligible countries, pursuant to section 1727b(a) of this title, in identifying appropriate projects for assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title.

(3) Greatest efforts shall be made by relevant United States agencies to encourage maximum utilization of assistance for Food for Development projects under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title, even beyond the minimums required by paragraph (1) of this subsection.

(July 10, 1954, ch. 469, title III, § 302, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 549.)

PRIOR PROVISIONS

A prior section 302 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1431 of this title, was renumbered section 309 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727b. Multiyear utilization proposal

(a) Formulation; content

A country designated as eligible and wishing to participate in a Food for Development Program shall formulate, with the assistance (if requested) of the United States Government, a multiyear proposal which shall be submitted to the President. Such proposal shall include an annual value or amount of agricultural commodities proposed to be financed under the authority of subchapter II of this chapter pursuant to the provisions of this subchapter and subchapter I of this chapter, and sections 1427 and 1431 of this title, and a plan for the intended uses of commodities or the funds generated from the sale of such commodities, on an annual basis for each year such funds are to be disbursed. Such proposal shall also specify the nature and magnitude of problems to be affected by the effort, and shall present targets in quantified terms, insofar as possible, and a description of the relationships among the various projects, activities, or programs to be supported.

(b) Integration with other forms of development assistance

The multiyear utilization proposal for a Food for Development Program shall include, but not be limited to, a statement of how assistance under such Program will be integrated into and complement that country's overall development plans and other forms of bilateral and multilateral development assistance, including assistance made available under section 103 of the Foreign Assistance Act of 1961 [22 U.S.C. 2151a] or under any other subchapter of this chapter.

(c) Non-replacement of other programs

In his review of any utilization proposal for a Food for Development Program, the President shall be satisfied that such assistance is intended to complement, but not replace, assistance authorized by the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or any other program of bilateral or multilateral assistance, or under the development program of the country desiring to initiate a Food for Development Program.

(July 10, 1954, ch. 469, title III, § 303, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 550.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§ 2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

PRIOR PROVISIONS

A prior section 303 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1692 of this title, was renumbered section 310 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1727a, 1727c, 1727f of this title.

§ 1727c. Credit

(a) Commodity Credit Corporation

Whenever a utilization proposal has been agreed upon by the President and the participating country, the Commodity Credit Corporation is authorized to furnish credit under the authority of subchapter II of this chapter to the participating country for the purchase of a specific annual value of agricultural commodities to be delivered over a period of from one to five years, subject to the availability of commodities under section 1731 of this title.

(b) Payment by recipient government

Notwithstanding any other provision of this chapter and sections 1427 and 1431 of this title, no payment except as provided for under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be required of the recipient government as a part of any agreement to finance the sale of agricultural commodities pursuant to a Food for Development Program.

(c) Waiver

In making food assistance available under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the President may waive any requirement contained in section 1727b (a) or (b) of this title, in that portion of section 1727b(c) of this title which requires that assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title is intended to complement but not replace any part of the development program of the participating country, or in section 1727e of this title, if he finds that such country is unable to meet such requirement but could use assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title to meet important humanitarian or developmental objectives of this chapter and sections 1427 and 1431 of this title. Such waivers, and the reasons therefor, shall be reported annually by the President to the Congress.

(July 10, 1954, ch. 469, title III, § 304, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 550.)

PRIOR PROVISIONS

A prior section 304 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1693 of this title, was repealed by Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727d. Funds generated from sale of agricultural commodities

Funds generated from the sale of agricultural commodities by any participating country under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be held in a special account, where practicable, to be disbursed for the purposes described in the approved Food for Development Program of such country. The amount of funds disbursed for such purposes and in accordance with the agreement shall be deemed payments for the purposes of section 1703(b) of this title.

(July 10, 1954, ch. 469, title III, § 305, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 550.)

PRIOR PROVISIONS

A prior section 305 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1694 of this title, was repealed by Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727e. Report to President

Not more than one year after the initial delivery of commodities to any country under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title and each year thereafter for the period of agreement, the government of the participating country, with the assistance (if requested) of the United States Government, shall submit a comprehensive report to the President on the activities and progress achieved under the Food for Development Program for such country, including, but not limited to, a comparison of results with projected targets, a specific accounting for funds generated, their uses, and the outstanding balances at the end of the most recent fiscal year. Such annual report may also include recommendations for modification and improvement in the Food for Development Program of such country.

(July 10, 1954, ch. 469, title III, § 306, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 551.)

PRIOR PROVISIONS

A prior section 306 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 11, 73 Stat. 608, which enacted section 1695 of this title, was repealed by Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1727c of this title.

§ 1727f. Annual Presidential review

(a) Each year the President shall review the disposition of all agreements providing for the use of the proceeds from the sale of agricultural commodities pursuant to this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title for which such funds were not fully disbursed the preceding year. The results of such review shall be included in the annual report to the Congress required under section 1736b(a) this title.

(b) If the President finds that the provisions of an agreement are not being substantially met, he shall not extend financing for sales under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title until the end of the following fiscal year or until the situation is remedied, whichever occurs first, unless the failure to meet the provisions is due to unusual circumstances beyond the control of the recipient government.

(July 10, 1954, ch. 469, title III, § 307, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 551.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

PRIOR PROVISIONS

A prior section 307 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 12, 73 Stat. 609, which enacted section 1696 of this title,

was repealed by Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1731. Agricultural commodities available for disposition; determination by Secretary of Agriculture; criteria; storage facilities; domestic production in recipient countries

(a) After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this chapter and sections 1427 and 1431 of this title, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this chapter and sections 1427 and 1431 of this title, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this chapter and sections 1427 and 1431 of this title if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this chapter and sections 1427 and 1431 of this title.

(b) No agricultural commodity may be financed or otherwise made available under the authority of this chapter and sections 1427 and 1431 of this title except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 212, 91 Stat. 551; Sept. 29, 1977, Pub. L. 95-113, title XII, § 1204, 91 Stat. 956.)

Amendments

1977—Subsec. (a). Pub. L. 95-113 added provisions under which commodities may be made available for disposition if the Secretary of Agriculture determines that some part of the supply of commodities should be used to carry out urgent humanitarian purposes, even though such disposition would reduce the domestic supply of those commodities below that needed to meet domestic requirements, provide adequate carryover, and allow for anticipated exports.

Pub. L. 95-88 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-88 added subsec. (b).

Effective Date of 1977 Amendments

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1707, 1721, 1727c of this title.

§ 1732. Agricultural commodity defined; fishery products available

The term "agricultural commodity" as used in this chapter and sections 1427 and 1431 of this title shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of subchapter III of this chapter, tobacco or products thereof. The foregoing proviso shall not be construed as prohibiting representatives of the domestic wine industry from participating in market development activities carried out with foreign currencies made available under subchapter II of this chapter which have as their purpose the expansion of export sales of United States agricultural commodities. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this chapter and sections 1427 and 1431 of this title. In the allocation of funds made available under subchapter II of this chapter, priority shall be given to financing the sale of food and fiber commodities.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1205, 91 Stat. 956.)

Amendments

1977—Pub. L. 95-113 required that in allocation of funds made available under subchapter II of this chapter priority be given to financing the sale of food and fiber commodities.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1733. Authorization of appropriations; reimbursement of Commodity Credit Corporation; classification of expenditures

(a) There are authorized to be appropriated such sums as may be necessary to carry out this chapter and sections 1427 and 1431 of this title including such amounts as may be required to make payments to the Commodity Credit Corporation, to the extent the Commodity Credit Corporation is not reimbursed under sections 1704(j) and 1705 of this title, for its actual costs incurred or to be incurred. In presenting his budget, the President shall classify expenditures under this chapter and sections 1427 and 1431 of this title as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(b) Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all costs incurred under this chapter and sections 1427 and

1431 of this title, commodities from the Commodity Credit Corporation inventory, which were acquired under a domestic price support program, shall be valued at the export market price therefor, as determined by the Secretary of Agriculture, as of the time the commodity is made available under this chapter and sections 1427 and 1431 of this title.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1206, 91 Stat. 956.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1206(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-113, § 1206(2), added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1736. Food production assistance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1706, 1727 of this title.

§ 1736b. Reports to Congress; revised regulations governing operations; bagged commodities

[*See main edition for text of* (a)]

(b) Not later than September 30 of each year, the President shall submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under subchapter II of this chapter for the coming fiscal year. Not later than December 31, March 31, and June 30 of each year, the President shall submit a report to the Congress showing the current status of planned programing of food assistance under subchapter II of this chapter for the current fiscal year.

(c) Beginning October 1, 1978, and at each five-year interval thereafter, the President shall submit to the Congress a comparative cross-country evaluation of programs conducted under subchapters I, III, and III-A of this chapter, and sections 1427 and 1431 of this title. Such evaluations shall cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and the Caribbean), and shall assess the nutritional and other impacts, achievements, problems, and future prospects for programs under subchapters I, III, and III-A of this chapter, and sections 1427 and 1431 of this title.

(d)(1) Not later than six months following September 29, 1977, and at each two-year interval thereafter, the Secretary of Agriculture shall issue revised regulations governing all operations under subchapter II of this chapter, including operations relating to purchasing countries, suppliers of commodities or ships, and purchasing or shipping agents. The regulations shall include, but not be limited to, prohibitions against conflicts of interest, as determined by the Secretary, between (A) recipient countries (or other purchasing entities) and their agents, (B) suppliers of commodities, (C) suppliers of ships, and (D) other shipping interests.

(2) The regulations shall be designed to encourage an increase in the number of exporters participating in the program.

(3) All revised regulations governing operations under subchapters I, II, and III-A of this chapter, and sections 1427 and 1431 of this title shall be transmitted to Congress by the Secretary as soon as practicable after their issuance.

(e) Bagged commodities for the purpose of financing by the Commodity Credit Corporation under this chapter and sections 1427 and 1431 of this title may, subject to regulations issued by the Secretary of Agriculture, be considered "exported" upon delivery at port, and upon presentation of a dock receipt in lieu of an onboard bill of lading.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 213, 91 Stat. 551; Sept. 29, 1977, Pub. L. 95-113, title XII, § 1207, 91 Stat. 957.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88 substituted provisions that, not later than September 30 of each year, the President submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under subchapter II of this chapter for the coming fiscal year, and that, not later than December 31, March 31, and June 30 of each year, the President submit a report to the Congress showing the current status of planned programing of food assistance under subchapter II of this chapter for the current fiscal year, for provisions that, in his presentation to the Congress of planned programing of food assistance for each fiscal year, the President include a global assessment of food production and needs, self-help steps which are being taken by food-short countries under section 1709(a) of this title, steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance, and the relationship between food assistance provided to each country under this chapter and other foreign assistance provided to such country by the United States and other donors.

Subsec. (c). Pub. L. 95-88 substituted provisions that, beginning Oct. 1, 1978, and at each five-year interval thereafter, the President submit to the Congress a comparative cross-country evaluation of programs conducted under subchapters I, III, and III-A of this chapter, and sections 1427 and 1431 of this title and that such evaluations cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and Caribbean), and assess the nutritional and other impacts, achievements, problems, and future prospects for programs thereunder, for provisions that, not later than November 1 of each calendar year the President submit to the House Committee on Agriculture, the House Committee on International Relations, the Senate Committee or Agriculture and Forestry, and the Senate Committee on Foreign Relations a revised global assessment of food production and needs, and revised planned programming of food assistance for the current fiscal year, to reflect, to the maximum extent feasible, the actual availability of commodities for food assistance.

Subsecs. (d), (e). Pub. L. 95-113 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effec-

tive Date of 1977 Amendment note under section 1307 of this title.

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707, 1726, 1727f of this title.

§ 1736c. Termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III

No agreements to finance sales under subchapter II of this chapter and no programs of assistance under subchapter III of this chapter shall be entered into after December 31, 1981. New spending authority provided for subchapter II of this chapter by the amendment to this section made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1208, 91 Stat. 957.)

REFERENCES IN TEXT

The new spending authority provided for subchapter II of this chapter by the amendment to this section made by the Food and Agriculture Act of 1977, referred to in text, means the new spending authority provided for subchapter II of this chapter resulting from the extension, by Pub. L. 95-113, of the termination date for agreements from Dec. 31, 1977, to Dec. 31, 1981.

AMENDMENTS

1977—Pub. L. 95-113 extended termination date for agreements from Dec. 31, 1977, to Dec. 31, 1981, and added directive that new spending authority provided for subchapter II of this chapter by the amendment to this section by the Food and Agriculture Act of 1977 be effective for any fiscal year only to the extent or in any such amounts as are provided for in appropriation acts.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 44—WOOL PROGRAM

§ 1781. Congressional declaration of policy

It is recognized that wool is an essential, strategic, and energy-efficient commodity which is not produced in the United States in sufficient quantities and grades to meet the domestic needs; and that the desired domestic production of wool is impaired by predatory animals and by the depressing effects of wide fluctuations in the price of wool in the world markets. It is declared to be the policy of Congress, as a measure of national security and to promote the general economic welfare, a positive balance of trade, and the efficient use of the Nation's resources, to encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner which will assure a viable domestic wool industry in the future.

(As amended Sept. 29, 1977, Pub. L. 95-113, title III, § 301, 91 Stat. 921.)

AMENDMENTS

1977—Pub. L. 95-113 added references to wool as an energy-efficient commodity, the impairment of domestic wool production by predatory animals, promotion of a positive balance of trade, and the efficient use of the Nation's resources, substituted references to wool production in a manner which will assure a viable domestic wool industry in the future for references to wool production in a manner which will have the least adverse effects upon foreign trade, and struck out reference to an annual domestic production of approximately three hundred million pounds of shorn wool, grease basis.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1782. Price supports; time limitation

(a) The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to the producers thereof by means of loans, purchases, payments, or other operations. Such price support shall be limited to wool and mohair marketed during the period beginning April 1, 1955, and ending December 31, 1981.

(b) The support price for shorn wool for the 1966 and each subsequent marketing year shall be determined by multiplying 62 cents by the ratio of (i) the average of the parity index (the index of prices paid by farmers, including commodities, and services, interest, taxes, and farm wage rates, as defined in section 1301(a)(1)(C) of this title) for the three calendar years immediately preceding the calendar year in which such price support is determined and announced to (ii) the average parity index for the three calendar years 1958, 1959, and 1960, and rounding the resulting amount to the nearest full cent: *Provided,* That for the marketing years beginning January 1, 1971, and ending December 31, 1976, the support price for shorn wool shall be 72 cents per pound, grease basis: *Provided further,* That for the marketing years beginning January 1, 1977, and ending December 31, 1981, the support price for shorn wool shall be 85 per centum (rounded to the nearest full cent) of the amount calculated according to the foregoing formula.

(c) The support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The deviation of mohair support prices shall not be calculated so as to cause it to rise or fall more than 15 per centum above or below the comparable percentage of parity at which shorn wool is supported: *Provided,* That for the

marketing years beginning January 1, 1971, and ending December 31, 1976, the support price for mohair shall be 80.2 cents per pound, grease basis.

[*See main edition for text of* (*d*) *and* (*e*)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title III, § 302, 91 Stat. 921.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 302(1), substituted "December 31, 1981" for "December 31, 1977".

Subsec. (b). Pub. L. 95-113, § 302(2), (3), substituted "December 31, 1976" for "December 31, 1977" and added proviso that, for the marketing years beginning Jan. 1, 1977, and ending Dec. 31, 1981, the support price for shorn wool shall be 85 per centum (rounded to the nearest full cent) of the amount calculated according to the foregoing formula.

Subsec. (c). Pub. L. 95-113, § 302(4), substituted "December 31, 1976" for "December 31, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 46—SURPLUS DISPOSAL OF AGRICULTURAL COMMODITIES

§ 1854. Agreements limiting imports

The President may, whenever he determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries and the importation into the United States of any agricultural commodity or product manufactured therefrom or textiles or textile products, and the President is authorized to issue regulations governing the entry or withdrawal from warehouse of any such commodity, product, textiles, or textile products to carry out any such agreement. In addition, if a multilateral agreement has been or shall be concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such an agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement. Nothing herein shall affect the authority provided under section 624 of this title.

(May 28, 1956, ch. 327, title II, § 204, 70 Stat. 200; June 19, 1962. Pub. L. 87-488, 76 Stat. 104.)

CODIFICATION

This section is set out in this supplement to correct a typographical error.

CHAPTER 50—AGRICULTURAL CREDIT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 940 of this title; title 12 section 371; title 15 section 636; title 40 App. sections 204, 214; title 42 sections 2985c, 3188a.

§ 1923. Purposes of loans

(a) Preferences

Loans may be made or insured under this subchapter for (1) acquiring, enlarging, or improving farms, including farm buildings, land and water development, use and conservation, (2) recreational uses and facilities, (3) enterprises needed to supplement farm income, (4) refinancing existing indebtedness, and (5) loan closing costs. In making or insuring loans for farm purchase, the Secretary shall give preference to persons who are married or have dependent families and, wherever practicable, to persons who are able to make initial downpayments, or who are owners of livestock and farm implements necessary successfully to carry on farming operations.

(b) Definitions

For purposes of this subchapter—

(1) the term "improving farms" includes, but is not limited to, the acquisition and installation of any qualified non-fossil energy system in any residential structure located on a family farm; and

(2) the term "qualified non-fossil energy system" means any system that utilizes technologies to generate fuel, energy, or energy intensive products from products other than fossil fuels as included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.], which meets such standards as may be prescribed by the Secretary, taking into consideration appropriate and available standards prescribed by the Secretary of Housing and Urban Development.

(As amended Pub. L. 95-113, title XIV, § 1448(a), Sept. 29, 1977, 91 Stat. 1011.)

REFERENCES IN TEXT

The Federal Non-Nuclear Research and Development Act of 1974, as amended, referred to in subsec. (b)(2), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1929. Agricultural Credit Insurance Fund

[*See main edition for text of* (*a*) *to* (*e*)]

(f) Utilization of fund

The Secretary may utilize the fund—

[*See main edition for text of* (*1*) *and* (*2*)]

(3) to pay to the holder of the notes any deferred or defaulted installment or, upon assignment of the note to the Secretary at the

Secretary's request, the entire balance due on the loan;

[*See main edition for text of (4) and (5); (g) and (h)*]

(As amended Pub. L. 95-113, title XV, § 1510(a), Sept. 29, 1977, 91 Stat. 1022.)

AMENDMENTS

1977—Subsec. (f)(3). Pub. L. 95-113 substituted "any deferred or defaulted installment" for "any defaulted installment".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1929a. Rural Development Insurance Fund

[*See main edition for text of (a) to (f)*]

(g) Use of Insurance Fund

The Secretary may utilize the Insurance Fund—

[*See main edition for text of (1) and (2)*]

(3) to pay to the holder of insured notes any deferred or defaulted installment, or upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

[*See main edition for text of (4) to (8); (h)*]

(As amended Pub. L. 95-113, title XV, § 1510(b), Sept. 29, 1977, 91 Stat. 1022.)

AMENDMENTS

1977—Subsec. (g)(3). Pub. L. 95-113 substituted "any deferred or defaulted installment" for "any defaulted installment".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1932. Rural industrialization assistance

(a) Loans for private business enterprises; pollution abatement and control; aquaculture; loan guarantees

The Secretary may also make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to individuals for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control, and the conservation, development, and utilization of water for aquaculture purposes. Such loans, when originated, held, and serviced by other lenders, may be guaranteed by the Secretary under this section without regard to subsections (a) and (c) of section 1983 of this title. As used in this subsection, the term "aquaculture" means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of creating or augmenting publicly owned and regulated stocks of fish.

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95-113, title XV, § 1503(b), Sept. 29, 1977, 91 Stat. 1021.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 added reference to the conservation, development, and utilization of water for aquaculture purposes and added a definition of "aquaculture".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1942. Purposes of loans; grants for pollution abatement and control projects, limitations

(a) Loans may be made under this subchapter for (1) paying costs incident to reorganizing the farming system for more profitable operation, (2) purchasing livestock, poultry, and farm equipment (including equipment which utilizes solar energy), (3) purchasing feed, seed, fertilizer, insecticides, and farm supplies and to meet other essential farm operating expenses including cash rent, (4) financing land and water development, use, and conservation, (5) without regard to the requirements of section 1941(a)(2) and (3) of this title, to individual farmers or ranchers to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter, (6) enterprises needed to supplement farm income, (7) refinancing existing indebtedness, (8) other farm and home needs including but not limited to family subsistence, (9) loan closing costs, and (10) for assisting farmers or ranchers in effecting additions to or alterations in the equipment, facilities, or methods of operation of their farms or ranches in order to comply with the applicable standards promulgated pursuant to section 655 of title 29 or standards adopted by a State pursuant to a plan approved under section 667 of title 29, if the Secretary determines that any such farmer or rancher is likely to suffer substantial economic injury due to such compliance without assistance under this paragraph. For the purposes of this subchapter, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95-113, title XIV, § 1448(b), Sept. 29, 1977, 91 Stat. 1012.)

REFERENCES IN TEXT

The Federal Non-Nuclear Research and Development Act of 1974, as amended, referred to in subsec. (a), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as

amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 added parenthetical provision extending the section to include farm equipment which utilizes solar energy and added definition of "solar energy".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1964. Liability of borrower

(a) Interest rates; maturity; security

Loans made or insured under this chapter shall be (1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disaster, and (2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary. All such loans shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than provided for loans for similar purposes under subchapters I and II of this chapter, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided,* That the security is adequate to assure repayment of the loans; except that if such security is not available because of the disaster, the Secretary shall (i) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with his confidence in the repayment ability of the applicant, is adequate security for the loan, and (ii) make such loan repayable at such times as he may determine, not later than that provided under subchapters I and II of this chapter, as justified by the needs of the applicant: *Provided further,* That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subchapter II of this chapter, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period.

(b) Reduction in interest rate

Notwithstanding the provisions of any other law, during any period in which the Small Business Administration is making loans under sections 636(b)(1) and 636(b)(2) of title 15 to businesses at a rate of interest below the average annual interest rate on all interest-bearing obligations of the United States, loans made hereunder shall bear interest at a rate not to exceed such lower interest rates in amounts not to exceed $250,000 to businesses and $40,000 to homeowners.

(c) Eligibility for grant

Any political subdivision of a State with a population of less than 10,000 which, if such subdivision had a population of 10,000 or more, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under this chapter during any period in which such Community Relief Act of 1977 is or has been in effect.

(As amended Pub. L. 95-89, title IV, § 406, Aug. 4, 1977, 91 Stat. 561.)

REFERENCES IN TEXT

The Community Emergency Drought Relief Act of 1977, referred to in subsec. (c), is Pub. L. 95-31, May 23, 1977, 91 Stat. 169. Title I of the Community Emergency Drought Relief Act of 1977 is set out as a note under section 5184 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-89 designated existing provisions as subsec. (a) and deleted end proviso prescribing for any loan made by the Small Business Administration in connection with a disaster occurring on or after Aug. 5, 1975, under section 636(b)(1), (2), or (4) of title 15 a rate of interest determined in the first paragraph following section 636(b)(8) of title 15 for loans under paragraphs (3), (5), (6), (7), or (8) of section 636(b) of title 15, now covered in subsec. (b) of this section.

Subsecs. (b), (c). Pub. L. 95-89 added subsecs (b) and (c).

CHAPTER 51—FOOD STAMP PROGRAM

Sec.
2027. Authorization of appropriations [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 610, 5179; title 43 section 1626.

§ 2011. Congressional declaration of policy

It is declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "a more nutritious diet" for "a nutritionally adequate diet" as the object of the program.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SHORT TITLE

Section 1 of Pub. L. 88-525, as amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958, provided that: "This Act [this chapter] may be cited as the 'Food Stamp Act of 1977'."

IMPLEMENTATION OF 1977 AMENDMENT; SAVINGS PROVISIONS; AVAILABILITY OF APPROPRIATED FUNDS; REPORT

Section 1303 of Pub. L. 95-113, provided that:

"(a) The Secretary of Agriculture shall implement the Food Stamp Act of 1977 [this chapter as amended by Pub. L. 95-113] as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended [this chapter prior to amendment by Pub. L. 95-113], which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977. Coupons issued pursuant to the Food Stamp Act of 1964, as amended, and in general use as of the effective date of the Food Stamp Act of 1977 [Oct. 1, 1977], shall continue to be usable to purchase food, and all other liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1964, as amended, shall continue in force until finally resolved or terminated by administrative or judicial action, or otherwise.

"(b) Pending proceedings under the Food Stamp Act of 1964, as amended, shall not be abated by reason of any provision of the Food Stamp Act of 1977, but shall be disposed of pursuant to the applicable provisions of the Food Stamp Act of 1964, as amended, in effect prior to the effective date of the Food Stamp Act of 1977 [Oct. 1, 1977].

"(c) Appropriations made available to carry out the Food Stamp Act of 1964, as amended, shall be available to carry out the provisions of the Food Stamp Act of 1977.

"(d) The Secretary shall, within six months of enactment of this Act [Sept. 29, 1977], submit a quarterly report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, setting forth the previous quarter's expenditure, by State, for the food stamp program. Such report shall also include the number of individuals participating in the program and the cost of administering the program at each State level and at the national level."

§ 2012. Definitions

As used in this chapter, the term:

(a) "Allotment" means the total value of coupons a household is authorized to receive during each month.

(b) "Authorization card" means the document issued by the State agency to an eligible household which shows the allotment the household is entitled to be issued.

(c) "Certification period" means the period for which households shall be eligible to receive authorization cards. In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant. In the case of all other households the period shall be not less than three months: *Provided*, That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.

(d) "Coupon" means any coupon, stamp, or type of certificate issued pursuant to the provisions of this chapter.

(e) "Coupon issuer" means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility in connection with, the issuance of coupons to households.

(f) "Drug addiction or alcoholic treatment and rehabilitation program" means any such program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.]) and Public Law 92-255 (Drug Abuse Office and Treatment Act of 1972 [21 U.S.C. 1101 et seq.]) as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(g) "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), and (5) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of

narcotics addicts or alcoholics served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs, and (6) in the case of certain eligible households living in Alaska, equipment for procuring food by hunting and fishing, such as nets, hooks, rods, harpoons, and knives (but not equipment for purposes of transportation, clothing, or shelter, and not firearms, ammunition, and explosives) if the Secretary determines that such households are located in an area of the State where it is extremely difficult to reach stores selling food and that such households depend to a substantial extent upon hunting and fishing for subsistence.

(h) "Food stamp program" means the program operated pursuant to the provisions of this chapter.

(i) "Household" means (1) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or else pays compensation to the others for such meals, or (2) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption or else live with others and pay compensation to the others for such meals. In neither event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house. For the purposes of this subsection, residents of federally subsidized housing for the elderly and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions.

(j) "Reservation" means the geographically defined area or areas over which a tribal organization (as that term is defined in subsection (p) of this section) exercises governmental jurisdiction.

(k) "Retail food store" means (1) an establishment or recognized department thereof or house-to-house trade route, over 50 per centum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices, (2) an establishment, organization or program referred to in subsections (g)(3), (4), and (5) of this section, (3) a store purveying the hunting and fishing equipment described in subsection (g)(6) of this section, and (4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food.

(l) "Secretary" means the Secretary of Agriculture.

(m) "State" means the fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, and the reservations of an Indian tribe whose tribal organization meets the requirements of this chapter for participation as a State agency.

(n) "State agency" means (1) the agency of State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within such State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs, and (2) the tribal organization of an Indian tribe determined by the Secretary to be capable of effectively administering a food distribution program under section 2013(b) of this title or a food stamp program under section 2020(d) of this title.

(o) "Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty-four, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall (1) make household-size adjustments taking into account economies of scale, (2) make cost adjustments in the thrifty food plan for Alaska and Hawaii to reflect the cost of food in those States, (3) make cost adjustments in the separate thrifty food plans for Guam, Puerto Rico, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia, and (4) adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the six months ending the preceding September 30 and March 31, respectively.

(p) "Tribal organization" means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term "Indian tribe" is defined in the Indian Self-Determination Act (25 U.S.C. 450b(b)), as well as any Indian tribe, band, or community holding a treaty with a State government.

(As amended Pub. L. 95-113, title XIII, §§ 1301, 1302(a)(1), Sept. 29, 1977, 91 Stat. 958, 979.)

DEFINITION OF "HOUSEHOLD" FOR PERIOD ENDING SEPTEMBER 30, 1978

Pub. L. 93-233, § 8(a), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(a), (b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3, June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2, July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3, June 30, 1977, 91 Stat. 255, provided that, effective for the period ending September 30, 1978, section 3(e) of the Food Stamp Act of 1964 [*subsec. (e) (now subsec. (i)) of this section*], *should read as it did before amendment by Pub. L. 92-603 and Pub. L. 93-86 but with the addition of a new sentence at the end, and that section 3(b) of Pub. L. 93-86, which had substituted provisions relating to the treatment of individuals receiving supplementary security income benefits under title XVI of the Social Security Act for provisions relating to the treatment of persons eligible to re-*

ceive supplemental security income benefits under title XVI of the Social Security Act, should also not be effective for the same period. The resulting subsec. (e) [now subsec. (i)] reads as follows:

"(e) The term 'household' shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term 'household' shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, or (2) an elderly person who meets the requirements of section 2019(h) of this title. For the period ending September 30, 1978, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], State supplementary payments described in section 1616 of such Act [42 U.S.C. 1382e], or payments of the type referred to in section 212(a) of Public Law 93-66 [set out as a note under section 1382 of Title 42, The Public Health and Welfare], shall be considered to be a member of a household or an elderly person for purposes of this chapter for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616a of the Social Security Act [42 U.S.C. 1382e(a)], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps."

References in Text

Public Law 91-616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970), referred to in subsec. (f), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classifed principally to chapter 60 (§ 4541 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of Title 42 and Tables.

Public Law 92-255 (Drug Abuse Office and Treatment Act of 1972), referred to in subsec. (f), is Pub. L. 92-255, Mar. 21, 1972, 86 Stat. 65, as amended, which is classified principally to chapter 16 (§ 1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 21 and Tables.

The Social Security Act, referred to in subsec. (g), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Indian Self-Determination Act (25 U.S.C. 450b(b)), referred to in subsec. (p), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapters II (§ 450 et seq.) and III (§ 451 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Amendments

1977—Pub. L. 95-113 redefined the terms "Secretary", "food", "coupon", "household", "retail food store", "State agency", "State", "food stamp program", and "drug addiction or alcoholic treatment and rehabilitation program" and changed the designations of those terms, as thus redefined, from subsecs. (a), (b), (c), (e), (f), (h), (j), (k), and (n), respectively, to (l), (g), (d), (i), (k), (n), (m), (h), and (f), substituted definitions of "allotment", "authorization card", and "coupon issuer" for "coupon allotment", "authorization to purchase card", and "coupon vendor", respectively, and changed the designations of those terms as thus substituted from subsecs. (d), (m), and (o), respectively, to (a), (b), and (e), struck out definitions of "wholesale food concern", "bank", and "elderly person" which had been set out, respectively, in subsecs. (g), (i), and (l), and added definitions of "certification period", "reservation", "thrifty food plan", and "tribal organization" in subsecs. (c), (j), (o), and (p), respectively.

Effective Date of 1977 Amendment

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

Section 1302(b) of Pub. L. 95-113 provided that: "The amendments made by this section [repealing section 3(b) of Pub. L. 93-86 as described in the repeal note below and amending section 1431 of this title and notes under sections 612c of this title and 1382e of Title 42, The Public Health and Welfare] shall be effective October 1, 1977."

Repeals

Section 3(b) of Pub. L. 93-86, set out in the credit of this section, was repealed, effective Oct. 1, 1977, by section 1302(a)(1) of Pub. L. 95-113. That section 3(b) of Pub. L. 93-86 had amended the definition of "household" in 1973 to exclude individuals receiving supplementary security income benefits under title XVI of the Social Security Act in certain months.

Section Referred to in Other Sections

This section is referred to in sections 2019, 2020 of this title.

§ 2013. Establishment of program

(a) Use of coupons; redeemability

Subject to the availability of funds appropriated under section 2027 of this title, the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this chapter shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

(b) Distribution of federally donated foods

In jurisdictions where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any law, except that distribution may be made (1) on a temporary basis

under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the commodity supplemental food program. Distribution of commodities, with or without the food stamp program, shall also be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization. In the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for such distribution, except that, if the Secretary determines that the tribal organization is capable of effectively and efficiently administering such distribution, then such tribal organizations shall administer such distribution: *Provided,* That the Secretary shall not approve any plan for such distribution which permits any household on any Indian reservation to participate simultaneously in the food stamp program and the distribution of federally donated foods. The Secretary is authorized to pay such amounts for administrative costs of such distribution on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

(c) Regulations; transmittal of copy of regulations to Congressional Committees prior to issuance

The Secretary shall issue such regulations consistent with this chapter as the Secretary deems necessary or appropriate for the effective and efficient administration of the food stamp program and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5. In addition, prior to issuing any regulation, the Secretary shall provide the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation with a detailed statement justifying it.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 961.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 made the establishment of the food stamp program subject to the availability of funds appropriated under section 2027 of this title.

Subsec. (b). Pub. L. 95-113 added provisions relating to requests by tribal organizations.

Subsec. (c). Pub. L. 95-113 added provisions relating to the transmittal of regulations and accompanying statement of justification to Congressional committees.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2014 of this title.

§ 2014. Eligible households

(a) Income and other financial resources as substantial limiting factors in obtaining more nutritious diet

Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Assistance under this program shall be furnished to all eligible households who make application for such participation.

(b) Uniform national standards

The Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the food stamp program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.

(c) Nonfarm income poverty guidelines

The income standards of eligibility shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 2971d of title 42, for the forty-eight States and the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands of the United States, and Guam, respectively: *Provided,* That in no event shall the standards of eligibility for Puerto Rico, the Virgin Islands of the United States, or Guam exceed those in the forty-eight contiguous States: *Provided further,* That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the income poverty guidelines for 1977 by the change between the average 1977 Consumer Price Index and the Consumer Price Index for March 1978, utilizing the most current procedures which have been used by the Office of Management and Budget, and the income poverty guidelines for future periods shall be similarly adjusted.

(d) Income excluded in computing household income

Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household, (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter, (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which

do not exceed expenses actually incurred and which do not represent a gain or benefit to the household, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is a student, and who has not attained his eighteenth birthday, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, and (10) any income that any other law specifically excludes from consideration as income for the purpose of determining eligibility for the food stamp program.

(e) Deductions in computing household income

In computing household income, the Secretary shall allow a standard deduction of $60 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed a standard deduction determined by the Secretary in accordance with the best available information on the relationship of actual or potential itemized deductions claimed under the food stamp program in those areas to such deductions in the forty-eight contiguous States and the District of Columbia. Such standard deductions, starting July 1, 1978, shall be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the six months ending the preceding March 31 and September 30, respectively. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Households shall also be entitled to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed: *Provided*, That the amount of such excess shelter expense deduction shall not exceed $75 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States, amounts determined by the Secretary in accordance with the best available information on the relationship of the actual shelter costs in those areas to such costs in the forty-eight contiguous States and the District of Columbia, adjusted annually (commencing July 1, 1978) to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the twelve-month period ending the preceding March 31, or (3) a deduction combining the dependent care and excess shelter expense deductions under clauses (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection.

(f) Computation of household income by State agency

Household income shall be calculated by the State agency for the purpose of determining household eligibility. The State agency in calculating household income shall take into account the income reasonably anticipated to be received by the household in the certification period for which eligibility is being determined and the income which has been received by the household during the thirty days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to the household for the certification period, except that for (1) those households which by contract for other than an hourly or piecework basis, or by self-employment, derive their annual income in a period of time shorter than one year, income shall be calculated by being averaged over a twelve-month period and (2) those households which receive nonexcluded income of the type specified in subsection (d)(3) of this section, income shall be calculated by being averaged over the period for which it is provided.

(g) Allowable financial resources which eligible household may own

The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and shall, in so doing, assure that a household otherwise eligible to participate in the food stamp program will not be eligible to participate if its resources exceed $1,750, or, in the case of a household consisting of two or more persons, one of whom is age 60 or over, if its resources exceed $3,000. The Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1977, and shall, in addition, (1) include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce earned income) used for household transportation or used to obtain or continue employment or to transport disabled household members to the extent that the fair market value of any such vehicle exceeds $4,500, and (2) study and develop means of improving the effectiveness of these resource requirements in limiting participation to households in need of food assistance, and implement and report the

results of such study and the Secretary's plans to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than June 1, 1978.

(h) Temporary emergency standards of eligibility; Food Stamp Disaster Task Force

(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by section 5142(a) of title 42, establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of temporary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households. Such standards as are prescribed for individual emergencies may be promulgated without regard to section 2013(c) of this title or the procedures set forth in section 553 of title 5.

(2) The Secretary shall establish a Food Stamp Disaster Task Force, to assist States in implementing and operating the disaster program, which shall be available to go into a disaster area and provide direct assistance to State and local officials.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 962.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted reference to a more nutritious diet for reference to a nutritionally adequate diet, added provision that assistance under the program be furnished to all eligible households making application for participation, added reference to other financial resources held singly or in joint ownership, and struck out provisions excepting the limitation of the section in the case of disaster victims.

Subsec. (b). Pub. L. 95-113 inserted parenthetical reference to income standards for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States established pursuant to subsecs. (c) and (e) of this section, added provision that no State agency may impose standards for participation in the program additional to those meeting the eligibility standards established by the Secretary, and struck out provisions that had dealt with specific areas of income and financial resources for eligible households. See subsecs. (d) to (h).

Subsec. (c). Pub. L. 95-113 substituted provisions covering guidelines with regard to income standards for provisions covering employment of able-bodied adults in eligible households.

Subsec. (d). Pub. L. 95-113 substituted provisions specifying the specific items making up household income for provisions that required that the Secretary establish uniform national standards.

Subsecs. (e) to (h). Pub. L. 95-113 added subsecs. (e) to (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2015, 2017, 2020, 2026; title 43 section 1626.

§ 2015. Eligibility disqualifications

(a) Additional specific conditions rendering individuals ineligible

In addition to meeting the standards of eligibility prescribed in section 2014 of this title, households and individuals who are members of eligible households must also meet and comply with the specific requirements of this section to be eligible for participation in the food stamp program.

(b) Prior fraudulent use of coupons or authorization cards; period of ineligibility

No individual who is a member of a household otherwise eligible to participate in the food stamp program shall be eligible to participate for (1) three months after such individual has been found by a State agency after notice and hearing at the State level, or after failure to appeal a local hearing to the State level, to have fraudulently used, presented, transferred, acquired, received, possessed; or altered coupons or authorization cards, or (2) a period of not less than six and not more than twenty-four months, as determined by the court, after such individual has been found by a court of appropriate jurisdiction, with a State or a political subdivision thereof or the United States as prosecutor or plaintiff, to have been criminally or civilly fraudulent in the use, presentation, transfer, acquisition, receipt, possession, or alteration of coupons or authorization cards, or (3) both of the periods specified in clauses (1) and (2) of this subsection. Each such period of ineligibility is to take effect immediately upon the relevant administrative or judicial finding and to remain in effect, without possibility of administrative stay, unless and until the finding of fraud is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of disqualification be subject to judicial review.

(c) Refusal to provide necessary information

No household shall be eligible to participate in the food stamp program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility. Every household that is participating in the food stamp program shall report or cause to be reported to the State agency, on a form designed or approved by the Secretary (that shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this chapter, including the penalties therefor, by members of an eligible household) changes in income or household circumstances which the Secretary deems necessary in order to assure accurate eligibility and benefit determinations. The reporting requirement prescribed by this subsection shall be the sole such requirement for reporting changes in income or in household circumstances for participating households.

(d) Refusal to register for or accept employment

(1) Unless otherwise exempted by the provisions of paragraph (d)(2) of this subsection, no

household shall be eligible for assistance under this chapter if it includes a physically and mentally fit person between the ages of eighteen and sixty who (i) refuses at the time of application and once every six months thereafter to register for employment in a manner determined by the Secretary; (ii) refuses to fulfill whatever reasonable reporting and inquiry about employment requirements as are prescribed by the Secretary; (iii) is head of the household and voluntarily quits any job without good cause, unless the household was certified for benefits under this chapter immediately prior to such unemployment: *Provided*, That the period of ineligibility shall be sixty days from the time of the voluntary quit; or (iv) refuses without good cause to accept an offer of employment at a wage not less than the higher of either the applicable State or Federal minimum wage, or 80 per centum of the wage that would have governed had the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), been applicable to the offer of employment, and at a site or plant not then subject to a strike or lockout.

(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirements if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal-State unemployment compensation system; (B) a parent or other member of a household with responsibility for the care of a dependent child under age twelve or of an incapacitated person; (C) a parent or other caretaker of a child in a household where there is another able-bodied parent who is subject to the requirements of this subsection; (D) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person shall be subject to the requirements of paragraph (1) of this subsection during any period of more than thirty days when such school or program is in vacation or recess and any such person enrolled in an institution of higher education shall be subject to the requirements of subsection (e)(3)(B) of this section as well); (E) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or (F) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours.

(3) To the extent that a State employment service is assigned responsibility for administering the provisions of subsection (d) of this section, it shall comply with regulations issued jointly by the Secretary and the Secretary of Labor, which regulations shall be patterned to the maximum extent practicable on the work incentive program requirements set forth in title IV of the Social Security Act (42 U.S.C. 630 et seq.) and shall take into account the diversity of the needs of the food stamp work registration population.

(e) Students

No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if he or she (1) has reached his or her eighteenth birthday, (2) is enrolled at least half time in an institution of higher education, and (3)(A) is properly claimed or could properly be claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household or (B) during the regular school year (i) is not employed a minimum of twenty hours per week or is not participating in a federally financed work study program, (ii) does not have weekly earnings which at least equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by twenty hours, (iii) is not registered for work amounting to at least twenty hours per week, (iv) is not the head of a household containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or (v) is not covered by an exemption from the work registration requirement contained in subsection (d) of this section other than clause (D) of paragraph (2) of that subsection.

(f) Aliens

No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 1101(a)(15) and 1101(a)(20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8; or (D) an alien who has qualified for conditional entry pursuant to section 1153(a)(7) of title 8 because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity; or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8; or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 1253(h) of title 8 because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on

account of race, religion, or political opinion. No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household.

(g) Residents of States which provide State supplementary payments

No individual who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] State supplementary payments described in section 1616 of such Act [42 U.S.C. 1382e], or payments of the type referred to in section 212(a) of Public Law 93-66, as amended, shall be considered to be a member of a household for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] and section 212(a) of Public Law 93-66, and (2) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

(h) Transfer of assets to qualify

No household that knowingly transfers assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 964.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, as amended, referred to in subsecs. (d)(1), (2), and (e), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Social Security Act, as amended, referred to in subsecs. (d)(1), (2) and (g), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV of the Social Security Act, as amended, is classified generally to subchapter IV (§ 601 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 212(a) of Pub. L. 93-66, referred to in subsec. (g), is Pub. L. 93-66, title II, § 212(a), July 9, 1973, 87 Stat. 155, which is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering eligibility disqualifications for provisions relating to the issuance, usage, and design of coupons which are now covered by section 2016 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 2026 of this title.

§ 2016. Issuance and use of coupons

(a) Printing

Coupons shall be printed under such arrangements and in such denominations as may be determined by the Secretary to be necessary, and shall be issued only to households which have been duly certified as eligible to participate in the food stamp program.

(b) Approved food stores; receipt of cash in change for coupons used to purchase food

Coupons issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the food stamp program at prices prevailing in such stores: *Provided*, That nothing in this chapter shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores: *Provided further*, That eligible households using coupons to purchase food may receive cash in change therefor so long as the cash received does not equal or exceed the value of the lowest coupon denomination issued.

(c) Design of coupons

Coupons issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose and define their denomination. The name of any public official shall not appear on such coupons.

(d) Coupon level inventories; monitorship; monthly operations report

The Secretary shall develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon issuers for the purpose of providing that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such issuers). Such procedures shall provide that coupon inventories in the hands of such issuers are not in excess of the reasonable needs of such issuers taking into consideration the ease with which such coupon inventories may be resupplied. The Secretary shall require each coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary or the Secretary's designee, which may include the State agency, a written report of the issuer's operations during such period. In addition to other information deemed by the Secretary to be appropriate, the Secretary shall require that the report contain an oath, or affirmation, signed by the coupon issuer, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon issuer, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

(e) Delivery and control procedures

The Secretary shall prescribe appropriate procedures for the delivery of coupons to coupon issuers and for the subsequent controls to be placed over such coupons by coupon issuers in order to ensure adequate accountability.

(f) Financial losses

Notwithstanding any other provision of this chapter, the State agency shall be responsible to the Secretary for any financial losses involved in the acceptance, storage, and issuance of coupons.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 967.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions relating to the issuance and use of coupons for provisions relating to the value of the coupon allotment which are now covered by section 2017 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2024 of this title.

§ 2017. Value of allotment

(a) The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 2014 of this title, rounded to the nearest whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be $10 per month. The Secretary shall, six months after the implementation of the elimination of the charge for allotments and annually thereafter, report to Congress the effect on participation and cost of this elimination.

(b) The value of the allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of an allotment under this chapter.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 968.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions relating to the value of the coupon allotment for provisions covering approval of retail stores and wholesale food concerns which are now covered by section 2018 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2026 of this title.

§ 2018. Approval of retail food stores and wholesale food concerns

(a) Applications; qualifications; certificate of approval

Regulations issued pursuant to this chapter shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (1) the nature and extent of the food business conducted by the applicant; (2) the volume of coupon business which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (3) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval.

(b) Effective and efficient operation of program

No wholesale food concern may be authorized to accept and redeem coupons unless the Secretary determines that its participation is required for the effective and efficient operation of the food stamp program. In addition, no firm may be authorized to accept and redeem coupons as both a retail food store and as a wholesale food concern at the same time.

(c) Information submitted by applicants; safeguards

Regulations issued pursuant to this chapter shall require an applicant retail food store or wholesale food concern to submit information which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this chapter or the regulations issued pursuant to this chapter. Regulations issued pursuant to this chapter shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(d) Hearing upon failure of applicant to receive approval

Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 2023 of this title.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 968.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering the approval of retail food stores and wholesale food concerns for provisions relating to the redemption of coupons which are now covered by section 2019 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 2019. Redemption of coupons

Regulations issued pursuant to this chapter shall provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through banks, with the cooperation of the Treasury Department, except that retail food stores defined in section 2012(k)(4) of this title shall be authorized to redeem their members' food coupons prior to receipt by the members of the food so purchased and private nonprofit organizations or institutions which serve meals to narcotics addicts or alcoholics in drug addiction or alcoholic treatment and rehabilitation programs shall not be authorized to redeem coupons through banks.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 969.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering the redemption of coupons for provisions relating to the administration of the program which are now covered by section 2020 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 4728.

§ 2020. Administration

(a) State responsibility; records, inspection and audit

The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of coupons and the control and accountability thereof. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this chapter and the regulations issued pursuant to this chapter. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not less than three years, as may be specified in the regulations issued pursuant to this chapter.

(b) Certification

Certification of a household as eligible in any political subdivision shall, in the event of removal of such household to another political subdivision in which the food stamp program is operating, remain valid for participation in the food stamp program for a period of sixty days from the date of such removal.

(c) Discrimination prohibited

In the certification of applicant households for the food stamp program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political beliefs.

(d) Plan of operation by State agency; Indians

The State agency (as defined in section 2012(n)(1) of this title) of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State in every political subdivision. In the case of all or part of an Indian reservation, the State agency as defined in section 2012(n)(1) of this title shall be responsible for conducting such program on such reservation unless the Secretary determines that the State agency (as defined in section 2012(n)(1) of this title) is failing, subsequent to August 31, 1964, properly to administer such program on such reservation in accordance with the purposes of this chapter and further determines that the State agency as defined in section 2012(n)(2) of this title is capable of effectively and efficiently conducting such program, in light of the distance of the reservation from State agency-operated certification and issuance centers, the previous experience of such tribal organization in the operation of programs authorized under the Indian Self-Determination Act (25 U.S.C. 450) and similar Acts of Congress, the tribal organization's management and fiscal capabilities, and the adequacy of measures taken by the tribal organization to ensure that there shall be no discrimination in the operation of the program on the basis of race, color, sex, or national origin, in which event such State agency shall be responsible for conducting such program and submitting for approval a plan of operation specifying the manner in which such program will be conducted. The Secretary, upon the request of a tribal organization, shall provide the designees of such organization with appropriate training and technical assistance to enable them to qualify as expeditiously as possible as a State agency pursuant to section 2012(n)(2) of this title. A State agency, as defined in section 2012(n)(1) of this title, before it submits its plan of operation to the Secretary for the administration of the food stamp program on all or part of an Indian reservation, shall consult in good faith with the tribal organization about that portion of the State's plan of operation pertaining to the implementation of the program for members of the tribe, and shall implement the program in a manner that is responsive to the needs of the Indians on the reservation as determined by ongoing consultation with the tribal organization.

(e) Requisites of State plan of operation

The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(1) that the State agency shall (A) inform low-income households about the availability, eligibility requirements, and benefits of the food stamp program, including, but not limited to, notification to recipients of aid to families with dependent children, supplemental security income, and unemployment compen-

sation, distribution of application forms, and associated instructions in filling out such forms, and on the documentation required pursuant to paragraph (3) of this subsection; (B) not conduct any other outreach activities of a noninformational nature in those areas in which a federally funded community action program is in operation and conducting food stamp outreach; and (C) use appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English;

(2) that each household which contacts a food stamp office in person during office hours to make what may reasonably be interpreted as an oral or written request for food stamp assistance shall receive and shall be permitted to file, on the same day that such contact is first made, a simplified, uniform national application form for participation in the food stamp program designed by the Secretary, unless the Secretary approves a deviation from that form by a particular State agency because of the use by that agency of a dual public assistance food stamp application form pursuant to subsection (i) of this section, the requirements of an agency's computer system, or other exigencies as determined by the Secretary. Each application form shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this chapter, including the penalties therefor, by members of an eligible household. The State agency shall comply with the standards established by the Secretary for points and hours of certification, and for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person at a certification office or through a representative pursuant to paragraph (7) of this subsection, so that such persons may have an adequate opportunity to be certified properly;

(3) that the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification only of income other than that determined to be excluded by section 2014(d) of this title and such other eligibility factors as the Secretary determines to be necessary to implement sections 2014 and 2015 of this title, so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application;

(4) that the State agency shall insure that each participating household receive a notice of expiration of its certification immediately prior to or at the start of the last month of its certification period advising it that it must submit a new application in order to renew its eligibility for a new certification period and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such recertification no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification, but if such household is found to be ineligible or to be eligible for a smaller allotment during the new certification period it shall not continue to participate and receive benefits on the basis authorized for the preceding certification period even if it makes a timely request for a fair hearing pursuant to paragraph (10) of this subsection;

(5) the specific standards to be used in determining the eligibility of applicant households which shall be in accordance with sections 2014 and 2015 of this title and shall include no additional requirements imposed by the State agency;

(6) that (A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this chapter; (B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the United States Civil Service Commission pursuant to section 4728 of title 42 modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis; and (C) the State agency shall undertake to provide a continuing, comprehensive program of training for all personnel undertaking such certification;

(7) that any applicant household may be represented in the certification process and that any eligible household may be represented in coupon issuance or food purchase by a person other than a member of the household so long as that person has been clearly designated as the representative of that household for that purpose by the head of the household or the spouse of the head, and, where the certification process is concerned, the representative is an adult who is sufficiently aware of relevant household circumstances;

(8) safeguards which limit the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter;

(9) that households in immediate need because of no income as defined in sections 2014(d) and (e) of this title receive coupons on an expedited basis;

(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of

such household in the food stamp program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hearing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier;

(11) for the prompt restoration in the form of coupons to households of any allotment or portion thereof which has been wrongfully denied or terminated;

(12) for the submission of such reports and other information as from time to time may be required by the Secretary;

(13) for compliance with standards set by the Secretary with respect to points and hours of coupon issuance;

(14) for indicators of expected performance in the administration of the program;

(15) that the State agency shall prominently display in all food stamp and public assistance offices posters prepared or obtained by the Secretary describing the information contained in subparagraphs (A) through (D) of this paragraph and shall make available in such offices for home use pamphlets prepared or obtained by the Secretary listing (A) foods that contain substantial amounts of recommended daily allowances of vitamins, minerals, and protein for children and adults; (B) menus that combine such foods into meals; (C) details on eligibility for other programs administered by the Secretary that provide nutrition benefits; and (D) general information on the relationship between health and diet; and

(16) that the State agency shall specify a plan of operation for providing food stamps for households that are victims of a disaster; that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program.

(f) Food and nutrition education program

To encourage the purchase of nutritious foods, the Secretary shall extend the expanded food and nutrition education program to the greatest extent possible to reach food stamp program participants. The program shall be further supplemented by the development of single concept printed materials, specifically designed for persons with low reading and comprehension levels, on how to buy and prepare more nutritious and economical meals and on the relationship between food and good health.

(g) State noncompliance; correction of failures

If the Secretary determines that in the administration of the food stamp program there is a failure by a State agency to comply with any of the provisions of this chapter, the regulations issued pursuant to this chapter, or the State plan of operation submitted pursuant to subsection (d) of this section, the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(h) Deposit by State to cover fraudulently or negligently issued coupons

If the Secretary determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into the Treasury of the United States, a sum equal to the face value of any coupon or coupons issued as a result of such negligence or fraud.

(i) System development

Notwithstanding any other provision of law, the Secretary and the Secretary of Health, Education, and Welfare shall develop a system by which (1) a single interview shall be conducted to determine eligibility for the food stamp program and the aid to families with dependent children program under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; (2) households in which all members are recipients of supplemental security income shall be permitted to apply for participation in the food stamp program by executing a simplified affidavit at the social security office and be certified for eligibility utilizing information contained in files of the Social Security Administration; (3) households in which all members are included in a federally aided public assistance or State or local general assistance grant shall have their application for participation in the food stamp program contained in the public assistance or general assistance application form; and (4) new applicants, as well as households which have recently lost or been denied eligibility for public assistance or general assistance, shall be certified for participation in the food stamp program based on information in the public assistance or general assistance case file to the extent that reasonably verified information is available in such case file.

(j) Joint regulations

The Secretary, in conjunction with the Secretary of Health, Education, and Welfare, is authorized to prescribe regulations permitting applicants for and recipients of social security benefits to apply for food stamps at social secu-

rity offices and be certified for food stamp eligibility in such offices in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

(k) Use of post offices

Subject to the approval of the President, post offices in all or part of the State may issue, upon request by the State agency, food stamps to eligible households.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 969.)

REFERENCES IN TEXT

The Indian Self-Determination Act (25 U.S.C. 450), referred to in subsec. (d), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified generally to subchapter II (§ 450f et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Social Security Act, referred to in subsec. (i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions relating to the administration of the program for provisions relating to the disqualification of retail stores and wholesale concerns which are now covered by section 2021 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2025 of this title.

§ 2021. Civil money penalties and disqualification of retail food stores and wholesale food concerns

Any approved retail food store or wholesale food concern may be disqualified for a specified period of time from further participation in the food stamp program, or subjected to a civil money penalty of up to $5,000 for each violation if the Secretary determines that its disqualification would cause hardship to food stamp households, on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this chapter or the regulations issued pursuant to this chapter. Such disqualification shall be for such period of time as may be determined in accordance with regulations issued pursuant to this chapter. The action of disqualification or the imposition of a civil money penalty shall be subject to review as provided in section 2023 of this title.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering civil money penalties and disqualification of retail food stores and wholesale food concerns for provisions relating to the determination and disposition of claims which are now covered by section 2022 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 2022. Determination of disposition of claims

The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this chapter or the regulations issued pursuant to this chapter, including, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions relating to the determination and disposition of claims for provisions relating to administrative and judicial review which are now covered by section 2023 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 2023. Administrative and judicial review

Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 2018 of this title, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 2021 of this title, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 2022 of this title, or a claim against a State agency is stated pursuant to the provisions of section 2022 of this title, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved. Such notice shall be delivered by certified mail or personal service. If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this chapter, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate. If such a request is not made or if such store, concern, or State agency

fails to submit information in support of its position after filing a request, the administrative determination shall be final. If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination. If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination. The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process. The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence. During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless an application to the court on not less than ten days' notice, and after hearing thereon and a showing of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions for administrative and judicial review for provisions relating to violations and enforcement which are now covered by section 2024 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2018, 2021 of this title.

§ 2024. Violations and enforcement

(a) Coupon redemption

Notwithstanding any other provision of this chapter, the Secretary may provide for the issuance or presentment for redemption of coupons to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States or to ensure enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(b) Unauthorized use, transfer, acquisition, alteration, or possession of coupons or authorization cards

Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this chapter or the regulations issued pursuant to this chapter shall, if such coupons or authorization cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons or authorization cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Presentation for payment or redemption of coupons that have been illegally received, transferred, or used

Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this chapter or the regulations issued pursuant to this chapter shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(d) Coupons as obligations of the United States

Coupons issued pursuant to this chapter shall be deemed to be obligations of the United States within the meaning of section 8 of title 18.

(e) Failure to provide monthly operations report; violation of regulations; delivery and control procedures

Any coupon issuer or any officer, employee, or agent thereof convicted of failing to provide the report required under section 2016(d) of this title or of violating the regulations issued under section 2016(d) and (e) of this title shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(f) Liability for financial losses involved in acceptance, storage, and issuance of coupons

Any coupon issuer or any officer, employee, or agent thereof convicted of knowingly providing false information in the report required under section 2016(d) of this title shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 975.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions relating to violations and enforcement for provisions relating to the State financing of administrative costs which are now covered by section 2025 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

§ 2025. Administrative cost-sharing and quality control

(a) Administrative costs

The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the food stamp program, which costs shall include, but not be limited to, the cost of (1) outreach, (2) the certification of applicant households, (3) the acceptance, storage, protection, control, and accounting of coupons after their delivery to receiving points within the State, (4) the issuance of coupons to all eligible households, and (5) fair hearings: *Provided,* That the Secretary is authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further authorized at the Secretary's discretion to pay any State agency administering the food stamp program on all or part of an Indian reservation under section 2020(d) of this title such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the food stamp program.

(b) Standards; withholding of funds

The Secretary shall (1) establish standards for the efficient and effective administration of the food stamp program by the States, including, but not limited to, staffing standards such as caseload per certification worker limitations, and (2) instruct each State to submit, at regular intervals, reports which shall specify the specific administrative actions proposed to be taken and implemented in order to meet the efficiency and effectiveness standards established pursuant to clause (1) of this subsection. If the Secretary finds that a State has failed without good cause to meet any of the Secretary's standards, or has failed to carry out the approved State plan of operation under section 2020(d) of this title, the Secretary shall withhold from the State such funds authorized under subsections (a) and (c) of this section as the Secretary determines to be appropriate.

(c) Federal share adjustment

Effective October 1, 1978, the Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the exception clause of subsection (a) of this section, by increasing such share to 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rates with respect to eligibility, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of this section is less than five per centum.

(d) Annual quality control plan

Effective October 1, 1978, and annually thereafter, each State not receiving an increased share of administrative costs pursuant to subsection (c) of this section shall be required to develop and submit to the Secretary for approval, as part of the plan of operation required to be submitted under section 2020(d) of this title, a quality control plan for the State which shall specify the actions such State proposes to take in order to reduce—

(1) the incidence of error rates in and the value of—

(A) food stamp allotments for households which fail to meet basic program eligibility requirements;

(B) food stamp allotments overissued to eligible households; and

(C) food stamp allotments underissued to eligible households; and

(2) the incidence of invalid decisions in certifying or denying eligibility.

(e) Definition

As used in this section "quality control" means monitoring and reducing the rate of errors in determining basic eligibility and benefit levels.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 976.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions relating to administrative cost-sharing and quality control for provisions authorizing appropriations and relating to the financial operation of the program which are now covered by section 2027 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

§ 2026. Research, demonstration, and evaluations

(a) Contracts or grants

The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the food stamp program in delivering nutrition-related benefits.

(b) Pilot projects

(1) The Secretary is authorized to conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households, including projects involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], the use of countersigned food coupons or similar identification mecha-

nisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons. The Secretary may waive the requirements of this chapter to the degree necessary for such projects to be conducted, except that no project shall be implemented which would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 2014 and 2017 of this title.

(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for food stamp benefits in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A) appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to the work registration requirements pursuant to section 2015(d) of this title, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 2017(a) of this title, shall be ineligible to participate in the food stamp program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days after the initial registration for employment referred to in section 2015(d)(1)(i) of this title, to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 2017(a) of this title, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph: *Provided*, That all of the political subdivision's or prime sponsor's public service jobs supported under the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), are filled before such subdivision or sponsor can extend a job offer pursuant to this paragraph: *Provided further*, That the sponsor of each such project shall provide the assurances required of prime sponsors under section 205(c)(7), (8), (15), (19), and (24) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 845(c)), and the Secretary shall require such sponsors to comply with the conditions contained in sections 208(a)(1), (4), and (5) and (c) and 703(4) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 848(a) and (c) and 983). The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following September 29, 1977, and shall issue a final report describing the results of such pilot projects no later than eighteen months following September 29, 1977.

(c) Evaluation measures

The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the food stamp program in achieving its stated objectives, including, but not limited to, the program's impact upon the nutritional and economic status of participating households, the program's impact upon all sectors of the agricultural economy, including farmers and ranchers, as well as retail food stores, and the program's relative fairness to households of different income levels, different age composition, different size, and different regions of residence.

(d) Study on recovery of food stamp benefits

Notwithstanding any other provision of law, the Secretary shall, in consultation with the Secretary of the Treasury, conduct a study, through the use of Federal income tax data, of the feasibility, alternative methods of implementation, and the effects of a program to recover food stamp benefits from members of eligible households in which the adjusted gross income of members of such households for a calendar year (as defined by title 26) may exceed twice the income poverty guidelines set forth in section 2014(c) of this title. Such study shall be conducted in rural and urban areas only on a voluntary basis by food stamp recipients. The Secretary shall, no later than twelve months and eighteen months from September 29, 1977, report the results of the study to the Committees on Agriculture and Ways and Means of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Finance of the Senate, together with such recommendations as the Secretary deems appropriate.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 977.)

References in Text

The Social Security Act, referred to in subsec. (b)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete

classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Comprehensive Employment and Training Act of 1973, as amended, referred to in subsec. (b)(2), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

The Fair Labor Standards Act of 1938, as amended, referred to in subsec. (b)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 substituted provisions relating to research, demonstrations, and evaluations for provisions relating to the purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2027 of this title.

§ 2027. Authorization of appropriations

(a) To carry out the provisions of this chapter, there are hereby authorized to be appropriated not in excess of $5,847,600,000 for the fiscal year ending September 30, 1978; not in excess of $6,158,900,000 for the fiscal year ending September 30, 1979; not in excess of $6,188,600,000 for the fiscal year ending September 30, 1980; and not in excess of $6,235,900,000 for the fiscal year ending September 30, 1981. Not to exceed one-fourth of 1 per centum of the previous year's appropriation is authorized in each such fiscal year to carry out the provisions of section 2026 of this title. Sums appropriated under the provisions of this chapter shall, notwithstanding the provisions of any other law, continue to remain available until expended.

(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

(Pub. L. 88-525, § 18, as added Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 979.)

EFFECTIVE DATE

Section 1301 of Pub. L. 95-113 provided in part that the enactment of this section by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2013 of this title.

CHAPTER 53—COTTON RESEARCH AND PROMOTION

§ 2106. Required terms and conditions in orders

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2105, 2113, 2116 of this title.

§ 2119. Repealed. Pub. L. 94-366, § 1, July 14, 1976, 90 Stat. 991

Section, Pub. L. 91-524, title VI, § 610, Nov. 30, 1970, 84 Stat. 1378; Pub. L. 93-86, § 1(23), Aug. 10, 1973, 87 Stat. 235, related to cotton development programs of the Commodity Credit Corporation, and funding for such programs.

EFFECTIVE DATE OF REPEAL

Section 1 of Pub. L. 94-366 provided in part that this section is repealed effective Oct. 1, 1977.

CHAPTER 54—TRANSPORTATION, SALE, AND HANDLING OF CERTAIN ANIMALS

§ 2156. Animal fighting venture prohibition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2153, 2154; title 39 section 3001.

CHAPTER 55—DEPARTMENT OF AGRICULTURE

Sec.
2266. Congressional reaffirmation of policy to foster and encourage family farms; annual report to Congress [New].
2267. Emergency feed program [New].
(a) Implementation.
(b) Conditions.
(c) Reimbursement.
(d) Penalty for unauthorized disposition of feed.
(e) Rules and regulations.
(f) Commodity Credit Corporation.
(g) Delegation of authority prohibited.

§ 2201. Establishment of Department

There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, rural development, aquaculture, and human nutrition, in the most general and comprehensive sense of those terms, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

(As amended Pub. L. 95-113, title XV, § 1502(a), Sept. 29, 1977, 91 Stat. 1021.)

AMENDMENTS

1977—Pub. L. 95-113 added references to aquaculture and human nutrition.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2204. General duties of Secretary; advisory functions; National rural development program, report to Congress

(a) The Secretary of Agriculture shall procure and preserve all information concerning

agriculture, rural development, aquaculture, and human nutrition which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists; and he shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-113, title XV, § 1502(b), Sept. 29, 1977, 91 Stat. 1021.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 added references to aquaculture and human nutrition.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2217. Oaths, affirmations, and affidavits taken by officers, agents, or employees of Department; use and effect

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2218 of this title; title 38 section 4202.

§ 2220. Certain officials and employees of Department and others not subject to restriction on payment of compensation to Government officials and employees

The officials and the employees of the Department of Agriculture engaged in the activities described in section 450b of this title and paid in whole or in part out of funds contributed as provided therein, and the persons, corporations, or associations making contributions as therein provided, shall not be subject to the provisions of section 209 of title 18; nor shall any official or employee engaged in the cooperative activities of the Forest Service, or the persons, corporations, or associations contributing to such activities be subject to such section.

(July 24, 1919, ch. 26, 41 Stat. 270; Sept. 3, 1954, ch. 1263, § 5, 68 Stat. 1227.)

CODIFICATION

"Section 209 of title 18" was substituted for "section 1914 of title 18" on authority of section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1914 of title 18" for reference to the proviso in the Act of March 3, 1917 (5 U.S.C. 66).

§ 2240. Reimbursement of appropriation for salaries and compensation of employees in mechanical shops

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 4202.

§ 2254. Operations, maintenance and purchase of aircraft by Agricultural Research Service; construction and repair of buildings

REPEATED

Pub. L. 95-97, title I, § 101, Aug. 12, 1977, 91 Stat. 811, 812.

§ 2266. Congressional reaffirmation of policy to foster and encourage family farms; annual report to Congress

(a) Congress specifically reaffirms the historical policy of the United States to foster and encourage the family farm system of agriculture in this country. Congress firmly believes that the maintenance of the family farm system of agriculture is essential to the social well-being of the Nation and the competitive production of adequate supplies of food and fiber. Congress further believes that any significant expansion of nonfamily owned large-scale corporate farming enterprises will be detrimental to the national welfare. It is neither the policy nor the intent of Congress that agricultural and agriculture-related programs be administered exclusively for family farm operations, but it is the policy and the express intent of Congress that no such program be administered in a manner that will place the family farm operation at an unfair economic disadvantage.

(b) In order that Congress may be better informed regarding the status of the family farm system of agriculture in the United States, the Secretary of Agriculture shall submit to Congress, not later than July 1 of each year, a written report containing current information on trends in family farm operations and comprehensive national and State-by-State data on nonfamily farm operations in the United States. The Secretary shall also include in each such report (1) information on how existing agricultural and agriculture-related programs are being administered to enhance and strengthen the family farm system of agriculture in the United States, (2) an assessment of how Federal laws may encourage the growth of nonfamily farm operations, and (3) such other information as the Secretary deems appropriate or determines would aid Congress in protecting, preserving, and strengthening the family farm system of agriculture in the United States.

(Pub. L. 95-113, title I, § 102, Sept. 29, 1977, 91 Stat. 918.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

STUDY OF IMPACT OF PROHIBITIONS ON PAYMENTS TO CERTAIN CORPORATIONS UNDER WHEAT, FEED GRAINS, COTTON, AND RICE PROGRAMS; REPORT BY JANUARY 1, 1979

Section 103 of Pub. L. 95-113 provided that: "In furtherance of the policy stated in section 102 of this Act [this section], the Secretary of Agriculture shall conduct a study and report to Congress no later than January 1, 1979, on the impact on participation in the wheat, feed grain, cotton, and rice programs and the production of such commodities in carrying out a statutory provision such as that included in the Food and Agriculture Act of 1977, as passed by the Senate on May 24, 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title], prohibiting the making of payments to certain corporations and other entities under such programs. The study shall, in addition assess the impact of extending the prohibition against making commodity program payments to tenants on land owned by such corporations and other entities which would be excluded from payments under such a provision. The study shall utilize, to the greatest extent possible, the information on commodity program payments compiled by the Agricultural Stabilization and Conservation Service in determining payment eligibility under section 101 of the Agricultural Act of 1970, as amended [section 1307 of this title], and section 101 of this Act [section 1308 of this title]. The Secretary may collect such other information as may be necessary to determine the impact of such a statutory provision and to identify the number and characteristics of producers that would be affected by such a provision."

§ 2267. Emergency feed program

(a) Implementation

Notwithstanding any other provision of law, the Secretary of Agriculture may implement an emergency feed program for assistance in the preservation and maintenance of livestock in any area of the United States, including Puerto Rico, Guam, and the Virgin Islands of the United States, where, because of flood, drought, fire, hurricane, earthquake, storm, or other natural disaster, the Secretary determines that an emergency exists.

(b) Conditions

The Secretary shall not provide assistance under this section to any person unless all of the following conditions created by the emergency are present:

(1) The person has suffered a substantial loss in the livestock feed normally produced on the farm for such persons' livestock;

(2) The person does not have sufficient feed for such person's livestock for the estimated period of the emergency; and

(3) The person is required to make feed purchases during the period of the emergency in quantities larger than such person would normally make.

(c) Reimbursement

Persons eligible for assistance under the program formulated under this section may be reimbursed for not to exceed 50 per centum of the cost of the feed purchased by such eligible persons during the period of emergency, as announced by the Secretary of Agriculture, or at such lower rate as may be established by the Secretary.

(d) Penalty for unauthorized disposition of feed

Any person who disposes of any feed for which such person is reimbursed under this section, in any manner other than as authorized by the Secretary, shall be subject to a penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose. In addition, such person shall be subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) Delegation of authority prohibited

Notwithstanding any other provision of law, the Secretary shall not delegate the authority to administer the emergency feed program to any other department, agency, or entity, public or private.

(Pub. L. 95-113, title XI, § 1105, Sept. 29, 1977, 91 Stat. 955.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427a of this title

CHAPTER 55A—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES [NEW]

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2282. Definitions.
2283. Establishment of advisory committees.
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(a) Maximum length.
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2286. Advisory committee charter requirements; operating costs.
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(a) Required contents.
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2289. Termination of advisory committees.
(a) Findings requiring termination.
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§ 2281. Congressional declaration of purpose

The purposes of this chapter are to—

(1) require strict financial and program accounting by advisory committees of the Department of Agriculture;

(2) assure balance and objectivity in the membership of such advisory committees; and

(3) prevent the formation or continuation of unnecessary advisory committees by the Department of Agriculture.

(Pub. L. 95-113, title XVIII, § 1801, Sept. 29, 1977, 91 Stat. 1041.)

EFFECTIVE DATE

Chapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2282. Definitions

When used in this chapter—

(1) the term "Secretary" means the Secretary of Agriculture of the United States;

(2) the term "Department of Agriculture" means the United States Department of Agriculture; and

(3) the term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof which is established or utilized by the Department of Agriculture in the interest of obtaining advice or recommendations for the President or the Department of Agriculture, except that such term excludes any committee which (A) is composed wholly of full-time officers or employees of the Federal Government, (B) is established by statute or reorganization plan, or (C) is established by the President.

(Pub. L. 95-113, title XVIII, § 1802, Sept. 29, 1977, 91 Stat. 1041.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2287 of this title.

§ 2283. Establishment of advisory committees

No advisory committee shall be established by the Department of Agriculture unless the Secretary determines that—

(1) the advisory committee will serve an essential function;

(2) the proposed membership for the advisory committee represents a balance of differing views;

(3) the proposed work and goals of the advisory committee cannot be carried out by an existing advisory committee;

(4) the proposed budget of the advisory committee reflects the reasonably anticipated costs of performing the function of the advisory committee; and

(5) the establishment of the advisory committee is in the public interest.

(Pub. L. 95-113, title XVIII, § 1803, Sept. 29, 1977, 91 Stat. 1041.)

§ 2284. Additional duties of Secretary of Agriculture

In addition to any responsibilities which the Secretary has under the Federal Advisory Committee Act, as amended, or other provision of law with respect to advisory committees, the Secretary shall ensure that all advisory committees—

(1) comply with all provisions of law relating to advisory committees, including this title;

(2) submit all reports and recommendations in written form;

(3) retain a written record of any responses made by the Department of Agriculture to the recommendations of the advisory committees; and

(4) do not exceed their proposed budgets by 10 per centum or $500, whichever is greater, without receiving prior approval for such additional expenditures from the Secretary as provided under section 2288 of this title.

(Pub. L. 95-113, title XVIII, § 1804, Sept. 29, 1977, 91 Stat. 1041.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, as amended, referred to in provision preceding par. (1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2285. Membership on advisory committees

(a) Maximum length

No person other than an officer or employee of the Department of Agriculture shall serve on an advisory committee for more than six consecutive years.

(b) Simultaneous service prohibited

No person shall simultaneously serve on more than one advisory committee unless authorized by the Secretary.

(c) Balanced membership

All advisory committees shall, to the extent practicable, have—

(1) a balanced membership reflecting the differing views of the groups substantially affected by the matters to be considered by such advisory committees; and

(2) ethnic, racial, and sexual balance.

(d) Conflict of interest

Each member of an advisory committee shall use his or her full name and principal place of residence, and shall provide the Secretary with (1) the names of persons or companies by whom he or she is employed, (2) his or her principal occupation, and (3) his or her major sources of income. Such information shall be forwarded to the appropriate committees of Congress having legislative jurisdiction or oversight responsibility with respect to the agency within the Department of Agriculture which established the advisory committee, as part of the annual report provided for in section 2287 of this title.

(e) Service by more than one officer or employee of any corporation or other entity

Not more than one officer or employee of any corporation or other entity, including all subsidiaries and affiliates thereof, shall serve on the same advisory committee at any one time, unless excepted by the Secretary.

(Pub. L. 95-113, title XVIII, § 1805, Sept. 29, 1977, 91 Stat. 1042.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2287 of this title.

§ 2286. Advisory committee charter requirements; operating costs

In addition to complying with other requirements of section 9(c)(G) of the Federal Advisory Committee Act, each advisory committee shall provide the following information to the Secretary when it files its charter—

(1) a statement that the estimate of annual operating costs developed pursuant to section 9(c)(G) of the Federal Advisory Committee Act is inclusive of all private and public moneys to be spent by or on behalf of the advisory committee; and

(2) specific estimates of—

(A) the amount of Federal funds that will be used annually to support directly or indirectly the operation of the advisory committee;

(B) the dollar value of the time and the expenses that will be incurred annually by Federal agencies and employees in assisting in the operation of the advisory committee;

(C) the travel expenses, including per diem or subsistence in lieu thereof, that will be incurred annually by advisory committee members and Department of Agriculture employees in attending meetings of the advisory committee, including travel performed in support of the advisory committee's operation; and

(D) all expenses that will be paid annually by sources outside the Government, including, but not limited to, expenses borne by the committee members or other individuals, such as their employers, corporations, organizations, associations, or labor organizations.

(Pub. L. 95-113, title XVIII, § 1806, Sept. 29, 1977, 91 Stat. 1042.)

REFERENCES IN TEXT

Section 9(c)(G) of the Federal Advisory Committee Act, referred to in provision preceding par. (1) and in par. (1), is section 9(c)(G) of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2287. Annual report

(a) Required contents

In addition to the other requirements of section 10 of the Federal Advisory Committee Act, as amended, each advisory committee within the Department of Agriculture, including all advisory committees as defined in section 2282(3) of this title and all other advisory committees within the Department of Agriculture established by statute or reorganization plan or established by the President, shall prepare, at least annually, a written report which shall contain—

(1) a description of all recommendations and suggestions it has provided to any executive department, agency, or other authority of the United States, or any State, or any individual during the immediately preceding year;

(2) a description of the response it has made during the immediately preceding year to specific recommendations and suggestions from any executive department, agency, or other authority of the United States, or any State, or any individual;

(3) an itemization, in detail, of all costs incurred by it during the immediately preceding year, including, but not limited to—

(A) public money spent on transportation for advisory committee members and other Department of Agriculture employees engaged in the business of the advisory committee, including individuals who are not members of the advisory committee;

(B) per diem allowances for temporary duty expenses for advisory committee members and for Department of Agriculture employees engaged in the work of the advisory committee who are not members of the advisory committee;

(C) salaries and consultant fees paid to the advisory committee members, guest presenters, or other advisors or assistants to the advisory committee at meetings of the advisory committee;

(D) the value of Department of Agriculture staff support time spent on the business of the advisory committee;

(E) the cost of leasing, renting, or purchasing equipment, meeting rooms, and supplies for the advisory committee;

(F) any additional cost involved in meetings of the advisory committee, including receptions, luncheons, dinners, and entertainment;

(G) miscellaneous expenses, with a separate category for any major expense item peculiar to the advisory committee; and

(H) such other expenses or cost items as may be relevant to full disclosure of the costs of operating the advisory committee; and

(4) a list of the members of the advisory committee and, where applicable, the background information on each member required to be submitted under section 2285 of this title.

(b) Transmittal to Secretary and Congress

The report required by this section shall be transmitted to the Secretary, the appropriate committees of Congress having legislative jurisdiction or oversight with respect to the agency within the Department of Agriculture which established the advisory committee, and the Library of Congress. A copy of such report shall also be available at the central location of each such advisory committee's files.

(Pub. L. 95-113, title XVIII, § 1807, Sept. 29, 1977, 91 Stat. 1043.)

REFERENCES IN TEXT

Section 10 of the Federal Advisory Committee Act, as amended, referred to in subsec. (a), is section 10 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2285 of this title.

§ 2288. Budget prohibitions

(a) Excessive expenditures

No advisory committee shall expend funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, unless it files a request therefor with the Secretary prior to any such expenditure which shall specify the use to which such funds will be put together with a comprehensive explanation as to why such expenditures were not known at the time of the annual estimate of operating costs, and the Secretary approves such request.

(b) Approval of overruns

The Secretary shall not approve the release of any funds under the Secretary's control to an advisory committee for any such overrun expenditure unless the Secretary finds that such funds are essential to the performance of the advisory committee's mission and the need for such funds could not have been reasonably anticipated.

(Pub. L. 95-113, title XVIII, § 1808, Sept. 29, 1977, 91 Stat. 1044.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2284, 2289 of this title.

§ 2289. Termination of advisory committees

(a) Findings requiring termination

The Secretary shall terminate any advisory committee upon a finding that any such advisory committee—

(1) has expended funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, without having obtained the prior approval of the Secretary pursuant to the provisions of section 2288 of this title;

(2) has failed to file in a timely manner all reports required under the provisions of the Federal Advisory Committee Act, as amended, or this chapter;

(3) has failed to meet for two consecutive years;

(4) has failed to issue any written reports other than reports required under the Federal Advisory Committee Act, as amended, and this chapter for two consecutive years;

(5) has failed to comply with any provision of the Federal Advisory Committee Act, as amended, or this chapter;

(6) is responsible for functions which otherwise would be or should be performed by Federal employees; or

(7) does not serve or has ceased to serve an essential public function.

(b) Reestablishment of terminated committees

Any advisory committee terminated under the provisions of this section may be reestablished only under the procedures set out in section 9 of the Federal Advisory Committee Act. If an advisory committee terminated under the provisions of this section is reestablished, all records, reports, and the complete files of such advisory committee so terminated shall be maintained together with the files of such reestablished advisory committee.

(Pub. L. 95-113, title XVIII, § 1809, Sept. 29, 1977, 91 Stat. 1044.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, as amended, referred to in subsecs. (a) and (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 59—RURAL FIRE PROTECTION, DEVELOPMENT, AND SMALL FARM RESEARCH AND EDUCATION

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

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2669. Pilot projects for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products [New].
(a) Formulation and execution of program.
(b) Loan guarantees.
(c) Conditions.
(d) Long-term contracts to supply agricultural commodities to loan recipients.
(e) Commodity Credit Corporation stocks as supply sources; outside purchases.
(f) Commodity Credit Corporation.
2670. Annual report to Congress [New].

SUBCHAPTER I—RURAL COMMUNITY FIRE PROTECTION

§ 2652. Cooperative agreements with State officials

(a) Terms and conditions of agreements; matching funds; limitation; State expenditure certificate

The Secretary shall carry out this subchapter in accordance with cooperative agreements, made with appropriate State officials, which include such terms and conditions as the Secretary deems necessary to achieve the purposes of this subchapter. No such agreement shall provide for financial assistance by the Secretary under this subchapter in any State during any fiscal year in excess of 50 per centum of the total budgeted expenditures or the actual expenditures, whichever is less, of the undertaking of such agreement for such year, including any expenditures of local public and private nonprofit organizations, including Indian tribal groups, participating in the activities covered by the agreement. Payments by the Secretary under any such agreement may be made on the certificate of the appropriate State official that the expenditures provided for under such agreement have been made.

(b) Disposition of excess Federal property to rural fire forces

The Secretary, with cooperation and assistance from the Administrator of the General Services Administration, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et

seq.]) by rural fire forces receiving assistance under this subchapter.

(c) Coordination of assistance

To promote maximum program effectiveness and economy, the Secretary shall closely coordinate the assistance provided under this subchapter with assistance provided under other fire protection and rural development programs administered by the Secretary.

(As amended Pub. L. 95-113, title XV, § 1504, Sept. 29, 1977, 91 Stat. 1021.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to use of excess personal property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2654. Authorization of appropriations

There is authorized to be appropriated to carry out the provisions of this subchapter $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this subchapter. There is further authorized to be appropriated to carry out the provisions of this subchapter not to exceed $7,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.

(As amended Pub. L. 95-113, title XV, § 1505, Sept. 29, 1977, 91 Stat. 1021.)

AMENDMENTS

1977—Pub. L. 95-113 authorized appropriations of not to exceed $7,000,000 for each of the fiscal years ending Sept. 30, 1978, 1979, and 1980.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

§ 2662. Programs authorization; cooperation and coordination with colleges and universities

The Secretary of Agriculture (hereafter referred to as the "Secretary") is directed and authorized to conduct in cooperation and in coordination with colleges and universities the following programs to carry out the purposes of this subchapter.

[*See main edition for text of (a) and (b)*]

(c) Small farm research

Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farmer operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance.

(d) Small farm extension

Small farm extension programs shall consist of extension programs to improve operations of small farmers using, to the maximum extent practicable, paraprofessional personnel to work with small farmers on an intensive basis to initiate and improve management techniques, agricultural production techniques, farm machinery technology, marketing techniques, and small farm finance, and to increase utilization by small farmers of existing services offered by the United States Department of Agriculture and other public and private agencies and organizations.

(As amended Pub. L. 95-113, title XIV, § 1440, Sept. 29, 1977, 91 Stat. 1005.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-113, § 1440(1), substituted "Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farmer operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance" for "Small farm extension and research and development programs shall consist of extension and research programs with respect to new approaches for small farms in management, agricultural production techniques, farm machinery technology, new products, cooperative agricultural marketing, and distribution suitable to the economic development of family size farm operations."

Subsec. (d). Pub. L. 95-113, § 1440(2), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2663, 2664, 2670 of this title.

§ 2663. Program moneys

(a) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this subchapter, except subsections (c) and (d) of section 2662 of this title, not to exceed $10,000,000 for the fiscal year ending June 30, 1974, not to exceed $15,000,000 for the fiscal year ending June 30, 1975, not to exceed $20,000,000 for the fiscal year ending June 30, 1976, not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979.

[*See main edition for text of* (*b*)]

(c) Authorization of appropriations for small farm research and small farm extension

There are authorized to be appropriated to carry out the purposes of subsections (c) and (d) of section 2662 of this title not to exceed $20,000,000 for each of the fiscal years ending September 30, 1978, and September 30, 1979.

(d) Distribution of appropriated funds

Such sums as Congress shall appropriate to carry out the purposes of this subchapter pursuant to subsection (c) of this section shall be distributed by the Secretary as follows:

(1) 4 per centum to be used by the Secretary for Federal administration;

(2) 19 per centum to be allocated among the several States to carry out the programs authorized in subsection (c) of section 2662 of this title in such amounts as determined by the Secretary; and

(3) 77 per centum to be allocated among the several States to carry out the programs authorized in subsection (d) of section 2662 of this title in such amounts as determined by the Secretary.

(e) Use of funds

Funds appropriated under this subchapter may be used to pay salaries and other expenses of personnel employed to carry out the functions authorized by this subchapter, to obtain necessary supplies, equipment, services, and rent, repair, and maintenance of other facilities needed, but may not be used to purchase or construct buildings.

(f) Contingencies for payment of funds; fiscal year availability; budget and accounting

Payment of funds to any State for programs authorized under section 2662(a), (b), (c), and (d) of this title shall be contingent upon the Secretary's approval of an annual plan and budget for programs conducted under each part and compliance with such regulations as the Secretary may issue under this subchapter. Funds shall be available for use by the State in the fiscal year for which appropriated and the next fiscal year following the year for which appropriated. Funds shall be budgeted and accounted for on such forms and at such times as the Secretary shall prescribe.

(g) Financing programs at universities other than universities responsible for administration of programs

Funds provided to each State under this subchapter may be used to finance programs through or at private and publicly supported colleges and universities other than the university responsible for administering the programs authorized by this subchapter.

(As amended Pub. L. 95-113, title XIV, § 1441, Sept. 29, 1977, 91 Stat. 1006.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1441(1), added ", except subsections (c) and (d) of section 2662 of this title," after "to carry out the purposes of this subchapter".

Subsec. (c). Pub. L. 95-113, § 1441(2), (3), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 95-113, § 1441(2), (3), added subsec. (d). Former subsec. (d) redesignated (f) and amended.

Subsec. (e). Pub. L. 95-113, § 1441(2), redesignated former subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95-113, § 1441(2), (4), redesignated former subsec. (d) as (f) and, in subsec. (f) as so redesignated, inserted reference to subsec. (d) of section 2662 of this title.

Subsec. (g). Pub. L. 95-113, § 1441(2), redesignated former subsec. (e) as (g).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2667. Definitions

For the purposes of this subchapter—

[*See main edition for text of* (*a*) *and* (*b*)]

(c) "Small farmer" means any farmer with gross sales from farming of $20,000 or less per year.

(As amended Pub. L. 95-113, title XIV, § 1442, Sept. 29, 1977, 91 Stat. 1006.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-113 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2669. Pilot projects for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products

(a) Formulation and execution of program

The Secretary is authorized and directed to formulate and carry out a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons.

(b) Loan guarantees

The Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans, not to exceed $15,000,000 per each such project, to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender.

(c) Conditions

No loan may be guaranteed under this section unless (1) research indicates the total energy content of the products and byproducts to be manufactured by the loan applicant will exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts, and (2) such other conditions as the Secre-

tary deems appropriate to achieve the purposes of this section are met.

(d) Long-term contracts to supply agricultural commodities to loan recipients

In order to assure that the recipients of loans made under this section have a dependable supply of agricultural commodities at a stable price for use in the pilot projects provided for in this section, the Secretary is authorized to enter into long-term contracts, not exceeding five years, with the recipients of such loans. Such contracts shall guarantee the recipients of such loans a specified quantity of agricultural commodities annually at mutually agreed upon prices, but the agricultural commodities shall not be sold under any such contracts at less than the price support level prescribed for the commodity concerned unless the commodities are out of condition, unstorable, or samplegrade or lower, as prescribed in Department of Agriculture standards.

(e) Commodity Credit Corporation stocks as supply sources; outside purchases

The Secretary shall supply from Commodity Credit Corporation stocks or, to such extent or in such amounts as are provided in appropriation Acts, purchase such quantities of agricultural commodities as may be necessary to comply with the terms of agreements entered into under this section.

(f) Commodity Credit Corporation

The provisions of this section shall be carried out through the Commodity Credit Corporation

(Pub. L. 92-419, title V, § 509, as added Pub. L. 95-113, title XIV, § 1420, Sept. 29, 1977, 91 Stat. 998.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 2670. Annual report to Congress

The Secretary shall evaluate annually the effectiveness of the programs established under subsections (c) and (d) of section 2662 of this title and make a report to Congress not later than February 1 of each year on that evaluation and the operation of the programs during the preceding fiscal year.

(Pub. L. 92-419, title V, § 510, as added Pub. L. 95-113, title XIV, § 1443, Sept. 29, 1977, 91 Stat. 1006.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 64—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING [NEW]

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SUBCHAPTER I—FINDINGS, PURPOSES, AND DEFINITIONS

§ 3101. Congressional findings

Congress finds that—

(1) the Federal Government of the United States has provided funding support for agricultural research and extension for many years in order to promote and protect the general health and welfare of the people of the United States, and this support has significantly contributed to the development of the Nation's agricultural system;

(2) the agencies conducting such federally supported research were established at different times in response to different and specific needs and their work is not fully coordinated;

(3) these agencies have only been partially successful in responding to the needs of all persons affected by their research, and useful information produced through such federally supported research is not being efficiently transferred to the people of the United States;

(4) expanded agricultural research and extension are needed to meet the rising demand for food and fiber caused by increases in worldwide population and food shortages due to short-term, localized, and adverse climatic conditions;

(5) increased research is necessary to alleviate inadequacies of the marketing system (including storage, transportation, and distribution of agricultural and forest products) which have impaired United States agricultural production and utilization;

(6) advances in food and agricultural sciences and technology have become increasingly limited by the concentration upon the thorough development and exploitation of currently known scientific principles and technological approaches at the expense of more fundamental research, and a strong research effort in the basic sciences is necessary to achieve breakthroughs in knowledge that can support new and innovative food and agricultural technologies;

(7) Federal funding levels for agricultural research and extension in recent years have not been commensurate with needs stemming from changes in United States agricultural practices and the world food and agricultural situation;

(8) new Federal initiatives are needed in the areas of—

(A) research to find alternatives to technologies based on fossil fuels;

(B) research and extension on human nutrition and food consumption patterns in order to improve the health and vitality of the people of the United States;

(C) research to find solutions to environmental problems caused by technological changes in food and agricultural production;

(D) aquacultural research and extension;

(E) research and extension directed toward improving the management and use of the Nation's natural and renewable resources, in order to meet the increased demand for forest products, conserve water resources (through irrigation management, tail water reuse, desalination, crop conversion, and other water conservation techniques), conserve soil resources, and properly manage rangelands;

(F) improving and expanding the research and extension programs in home economics;

(G) extension programs in energy conservation;

(H) extension programs in forestry and natural resources, with special emphasis to be given to improving the productivity of small private woodlands, modernizing wood harvesting and utilization, developing and disseminating reliable multiple-use resource management information to all landowners and consumers, and the general public, wildlife, watershed, and recreational management, and cultural practices (including reforestation, protection, and related matters);

(I) research on climate, drought, and weather modification as factors in food and agricultural production;

(J) more intensive agricultural research and extension programs oriented to the needs of small farmers and their families and the family farm system, which is a vital component of the agricultural production capacity of this country;

(K) research to expand export markets for agricultural commodities;

(L) development and implementation, through research, of more efficient, less wasteful, and environmentally sound methods of producing, processing, marketing, and utilizing food, fiber, waste products, other nonfood agricultural products, and forest and rangeland products;

(M) expanded programs of animal disease and health care research and extension;

(N) research to develop new crops, in order to expand our use of varied soils and increase the choice of nutritional and economically viable crops available for cultivation; and

(O) investigation and analysis of the practicability, desirability, and feasibility of using organic waste materials to improve soil tilth and fertility, and extension programs to disseminate practical information resulting from such investigations and analyses; and

(9) the existing agricultural research system consisting of the Federal Government, the land-grant colleges and universities, other colleges and universities engaged in agricultural research, the agricultural experiment stations, and the private sector constitute an essential national resource which must serve as the foundation for any further strengthening of agricultural research in the United States.

(Pub. L. 95-113, title XIV, § 1402, Sept. 29, 1977, 91 Stat. 981.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SHORT TITLE

Section 1401 of title XIV of Pub. L. 95-113 provided that: "This title [enacting this chapter and sections 2669 and 2670 of this title, amending sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealing section 390k of this title] may be cited as the 'National Agricultural Research, Extension, and Teaching Policy Act of 1977'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3102 of this title

§ 3102. Congressional declaration of purpose

The purposes of this chapter are to—

(1) establish firmly the Department of Agriculture as the lead agency in the Federal Government for the food and agricultural sciences, and to emphasize that agricultural research, extension, and teaching are distinct missions of the Department of Agriculture;

(2) undertake the special measures set forth in this chapter to improve the coordination and planning of agricultural research, identify needs and establish priorities for such research, assure that high priority research is given adequate funding, assure that national agricultural research, extension, and teaching objectives are fully achieved, and assure that the results of agricultural research are effectively communicated and demonstrated to farmers, processors, handlers, consumers, and all other users who can benefit therefrom;

(3) increase cooperation and coordination in the performance of agricultural research by Federal departments and agencies, the States, State agricultural experiment stations, colleges and universities, and user groups;

(4) enable the Federal Government, the States, colleges and universities, and others to implement needed agricultural research, extension, and teaching programs, including the initiatives specified in section 3101(8) of this title, through the establishment of new programs and the improvement of existing programs, as provided for in this chapter;

(5) establish a new program of grants for high-priority agricultural research to be awarded on the basis of competition among scientific research workers and all colleges and universities;

(6) establish a new program of grants for facilities and instrumentation used in agricultural research; and

(7) establish a new program of education grants and fellowships to strengthen training and research programs in the food and agricultural sciences, to be awarded on the basis of competition.

(Pub. L. 95-113, title XIV, § 1403, Sept. 29, 1977, 91 Stat. 983.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3103. Definitions

When used in this chapter—

(1) the term "Advisory Board" means the National Agricultural Research and Extension Users Advisory Board;

(2) the term "agricultural research" means research in the food and agricultural sciences;

(3) the term "aquaculture" means the propagation and rearing of aquacultural species, including, but not limited to, any species of finfish, mollusk, or crustacean (or other aquatic invertebrate), amphibian, reptile, or aquatic plant, in controlled or selected environments;

(4) the terms "college" and "university" mean an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association;

(5) the term "cooperative extension services" means the organizations established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914 (38 Stat. 372-374, as amended; 7 U.S.C. 341-349), and section 209(b) of the Act of October 26, 1974 (88 Stat. 1428, as amended; D.C. Code, sec. 31-1719(b));

(6) the term "Department of Agriculture" means the United States Department of Agriculture;

(7) the term "extension" means the informal education programs conducted in the States in cooperation with the Department of Agriculture;

(8) the term "food and agricultural sciences" means sciences relating to food and agriculture in the broadest sense, including the social, economic, and political considerations of—

(A) agriculture, including soil and water conservation and use, the use of organic waste materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

(B) the processing, distributing, marketing, and utilization of food and agricultural products;

(C) forestry, including range management, production of forest and range prod-

ucts, multiple use of forest and range lands, and urban forestry;

(D) aquaculture;

(E) home economics, human nutrition, and family life; and

(F) rural and community development;

(9) the term "Joint Council" means the Joint Council on Food and Agricultural Sciences;

(10) the term "land-grant colleges and universities" means those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute;

(11) the term "Secretary" means the Secretary of Agriculture of the United States;

(12) except as provided in subchapter VII of this chapter, the term "State" means any one of the fifty States, Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States;

(13) the term "State agricultural experiment stations" means those institutions eligible to receive funds under the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i); and

(14) the term "teaching" means the formal classroom and laboratory instruction and training in the food and agricultural sciences conducted at colleges and universities and leading to baccalaureate and other recognized degrees.

(Pub. L. 95-113, title XIV, § 1404, Sept. 29, 1977, 91 Stat. 983.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Smith-Lever Act of May 8, 1914, referred to in par. (5), is act May 18, 1914, ch. 79, 38 Stat. 372, as amended, which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Act of July 2, 1862, 12 Stat. 503, as amended, referred to in par. (10), is popularly known as the "Morrill Act" and also as the "First Morrill Act", and is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under 301 of this title and Tables.

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in par. (10), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Subchapter VII of this chapter, referred to in par. (12), read in the original, "subtitle H", meaning Pub. L. 95-113, title XIV, subtitle H, §§ 1446-1457, Sept. 29, 1977, 91 Stat. 1011, which enacted subchapter VII (§ 3241 et seq.) of this chapter and amended sections 341, 342, 427, 1923, and 1942 of this title. For complete classification of such Subtitle H to the Code, see Tables.

The Act of March 2, 1887, referred to in par. (13), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

SUBCHAPTER II—COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

§ 3121. Responsibilities of Secretary and Department of Agriculture

The Department of Agriculture is designated as the lead agency of the Federal Government for agricultural research (except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease), extension, and teaching in the food and agricultural sciences, and the Secretary, in carrying out the Secretary's responsibilities, shall—

(1) establish jointly with the Secretary of Health, Education, and Welfare procedures for coordination with respect to nutrition research in areas of mutual interest;

(2) keep informed of developments in, and the Nation's need for, research, extension, teaching, and manpower development in the food and agricultural sciences and represent such need in deliberations within the Department of Agriculture, elsewhere within the executive branch of the United States Government, and with the several States and their designated land-grant colleges and universities, other colleges and universities, agricultural and related industries, and other interested institutions and groups;

(3) coordinate all agricultural research, extension, and teaching activity conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other agencies of the executive branch of the United States Government;

(4) take the initiative in establishing coordination of State-Federal cooperative agricultural research, extension, and teaching programs, funded in whole or in part by the Department of Agriculture in each State, through the administrative heads of land-grant colleges and universities and the State directors of agricultural experiment stations and cooperative extension services, and other appropriate program administrators;

(5) consult the Joint Council, Advisory Board, and other appropriate advisory committees of the Department of Agriculture in the formulation of basic policies, goals, strategies, and priorities for programs of agricultural research, extension, and teaching;

(6) report (as a part of the Department of Agriculture's annual budget submissions) to the House Committee on Agriculture, the House Committee on Appropriations, the

Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations actions taken to support the recommendations of the Advisory Board;

(7) establish appropriate review procedures to assure that agricultural research projects are timely and properly reported and published and that there is no unnecessary duplication of effort or overlapping between agricultural research units;

(8) establish Federal or cooperative multidisciplinary research teams on major agricultural research problems with clearly defined leadership, budget responsibility, and research programs; and

(9) in order to promote the coordination of agricultural research of the Department of Agriculture, conduct a continuing inventory of ongoing and completed research projects being conducted within or funded by the Department.

(Pub. L. 95-113, title XIV, § 1405, Sept. 29, 1977, 91 Stat. 985.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3122. Joint Council on Food and Agricultural Sciences

(a) Establishment within Department of Agriculture

The Secretary shall establish within the Department of Agriculture a committee to be known as the Joint Council on Food and Agricultural Sciences which shall have a term of five years.

(b) Membership

The Joint Council shall be composed of representatives from the Department of Agriculture and those of its agencies with significant research and extension responsibilities, the Office of Science and Technology Policy, the land-grant colleges and universities, State agricultural experiment stations, State cooperative extension services, and those colleges and universities, other public and private institutions, producers, and representatives of the public who are interested in and have a potential to contribute, as determined by the Secretary, to the formulation of national policy in the food and agricultural sciences. The Joint Council shall be jointly chaired by the Assistant Secretary of Agriculture responsible for research, extension, and teaching, and a person to be elected from among the non-Federal membership of the Joint Council.

(c) Meetings

The Joint Council shall meet at least once during each three-month period. At least one meeting each year shall be a combined meeting with the Advisory Board.

(d) Responsibilities

(1) The primary responsibility of the Joint Council shall be to foster coordination of the agricultural research, extension, and teaching activities of the Federal Government, the States, colleges and universities, and other public and private institutions and persons involved in the food and agricultural sciences.

(2) The Joint Council's responsibilities shall also be to—

(A) provide a forum for the interchange of information among the organizations represented by the members of the Joint Council that will assure improved awareness among these organizations concerning the agricultural research, extension, and teaching programs, results, and directions of each organization;

(B) analyze and evaluate the economic, environmental, and social impacts of agricultural research, extension, and teaching programs conducted in the United States and determine high priority agricultural research areas, and submit annual reports identifying such high priority research areas to the Secretary;

(C) develop and review the effectiveness of a system, for use by the Secretary, of compiling, maintaining, and disseminating information about each federally supported agricultural research or extension project and, to the maximum extent possible, information about private agricultural research and extension projects conducted by colleges and universities, foundations, contract research groups, businesses, and others. Information about private agricultural research and extension projects shall not be included in this system unless they are partially or entirely funded by the Federal Government or the organizations sponsoring the projects agree to the inclusion of information about such projects;

(D) assist the parties in developing, reviewing, and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Secretary and the participants in agricultural research, extension, and teaching programs under this Act and other Acts;

(E) assist the Secretary in carrying out the responsibilities assigned to the Secretary under this chapter through planning and coordination efforts in the food and agricultural sciences that utilize an effective system of regional and national planning, and by the development of recommendations and reports describing current and long-range needs, priorities, and goals in the food and agricultural sciences and means to achieve these goals;

(F) develop, and review the effectiveness of, guidelines for use by the Secretary in making competitive grants under section 450i(b) of this title; and

(G) prepare and submit to the Secretary, not later than December 31 of each year, a statement of recommendations which shall include—

(i) the Joint Council's recommendations as to unified national, regional, or interstate agricultural research, extension, or teaching programs to be implemented during the following fiscal year, delineating suggested areas of responsibility for Federal and State agencies in carrying out such programs, and the overall planning, evaluation, coordina-

tion, and support necessary for such programs, and

(ii) a summary of agricultural research, extension, and teaching achievements made during, and the status of ongoing projects as of the end of, the prior fiscal year, with respect to the programs conducted by the organizations represented by the members of the Joint Council.

Minority views, if timely submitted, shall be included in the submission. The Secretary shall submit copies of the statement to the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, and the Advisory Board.

(Pub. L. 95-113, title XIV, § 1407, Sept. 29, 1977, 91 Stat. 986.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(2)(D), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in subsec. (d)(2)(E), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3125 of this title.

§ 3123. National Agricultural Research and Extension Users Advisory Board

(a) Establishment within Department of Agriculture

The Secretary shall establish within the Department of Agriculture a board to be known as the National Agricultural Research and Extension Users Advisory Board which shall have a term of five years.

(b) Membership

The Advisory Board shall be composed of the following twenty-one members to be appointed by the Secretary—

(1) four members representing producers of agricultural commodities, forest products, and aquacultural products,

(2) four members representing consumer interests,

(3) two members representing farm suppliers and food and fiber processors,

(4) two members representing food marketing interests,

(5) two members representing environmental interests,

(6) one member engaged in rural development work,

(7) two members engaged in human nutrition work,

(8) one member representing animal health interests,

(9) one member engaged in transportation of food and agricultural products to domestic or foreign markets,

(10) one member representing labor organizations primarily concerned with the production, processing, distribution, or transportation of food and agricultural products, and

(11) one member representing private sector organizations involved in development programs and issues in developing countries.

(c) Chairman; vice-chairman

The Advisory Board shall select a chairman and vice-chairman from its membership, at its first meeting each year, who shall serve in those positions for a term of one year.

(d) Meetings

The Advisory Board shall meet at least once during each four-month period. At least one meeting each year shall be a combined meeting with the Joint Council.

(e) Panels

The Advisory Board is authorized to establish such panels as it deems appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in meeting its responsibilities. Members of such panels may include members of the Advisory Board, Advisory Board staff members, individuals from the Department of Agriculture and other departments and agencies of the Federal Government, and individuals from the private sector who have expertise in the subject to be examined by the panel.

(f) Responsibilities

(1) The Advisory Board shall have general responsibility for preparing independent advisory opinions on the food and agricultural sciences.

(2) The Advisory Board shall have the specific responsibilities for—

(A) reviewing the policies, plans, and goals of programs within the Department of Agriculture involving the food and agricultural sciences, and related programs in other Federal and State departments and agencies and in the colleges and universities developed by the Secretary under this chapter;

(B) reviewing and assessing the extent of agricultural research and extension being conducted by private foundations and businesses, and the relationships of such research and extension to federally supported agricultural research and extension;

(C) reviewing and providing consultation to the Secretary on national policies, priorities, and strategies for agricultural research and extension for both the short and long term;

(D) assessing the overall adequacy of, and making recommendations to the Secretary with regard to, the distribution of resources and the allocation of funds authorized by this chapter;

(E) preparing and submitting to the Secretary, not later than October 31 of each year, a statement of recommendations as to allocations of responsibilities and levels of funding among federally supported agricultural re-

search and extension programs, which shall include a review and an assessment of the allocation of funds for agricultural research and extension made for the preceding fiscal year by the organizations represented on the Joint Council. Minority views, if timely submitted, shall be included in the submission. The Secretary shall submit copies of the statement to the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, and the Joint Council; and

(F) not later than March 1 of each year submitting a report on its appraisal of the President's proposed budget for the food and agricultural sciences for the fiscal year beginning in such year and the recommendations of the Secretary contained in the annual report submitted by the Secretary pursuant to the provisions of section 3125 of this title. Such report shall be submitted to the President, the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations. The report may include the separate views of members of the Advisory Board. The first report shall be due not later than March 1, 1979.

(Pub. L. 95-113, title XIV, § 1408, Sept. 29, 1977, 91 Stat. 988.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (f)(2)(A), (D), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3125 of this title.

§ 3124. Existing research programs

It is the intent of Congress in enacting this chapter to augment, coordinate, and supplement the planning, initiation, and conduct of agricultural research programs existing prior to September 29, 1977, except that it is not the intent of Congress in enacting this title to limit the authority of the Secretary of Health, Education, and Welfare under any Act which the Secretary of Health, Education, and Welfare administers.

(Pub. L. 95-113, title XIV, § 1409, Sept. 29, 1977, 91 Stat. 989.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3125. Annual report of Secretary of Agriculture to President and Congress

The Secretary shall submit to the President and Congress by February 1 of each year a report on the Nation's agricultural research, extension, and teaching activities, and such report shall include—

(1) a review covering the following three categories of activities of the Department of Agriculture with respect to agricultural research, extension, and teaching activities and the relationship of these activities to similar activities of other departments and agencies of the Federal Government, the States, colleges and universities, and the private sector—

(A) a current inventory of such activities organized by statutory authorization and budget outlay;

(B) a current inventory of such activities organized by field of basic and applied science; and

(C) a current inventory of such activities organized by commodity and product category;

(2) the statements of recommendations of the Joint Council developed pursuant to the provisions of section 3122(d)(2)(G) of this title and the statement of recommendations of the Advisory Board developed pursuant to the provisions of section 3123(f)(2)(E) of this title; and

(3) in the second and succeeding years, a five-year projection of national priorities with respect to agricultural research, extension, and teaching, taking into account both domestic and international needs.

(Pub. L. 95-113, title XIV, § 1410, Sept. 29, 1977, 91 Stat. 989.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3123 of this title.

§ 3126. Libraries and information network

(a) Congressional declaration of policy

It is declared to be the policy of Congress that—

(1) cooperation and coordination among, and the more effective utilization of, disparate agricultural libraries and information units be facilitated;

(2) information and library needs related to agricultural research and education be effectively planned for, coordinated, and evaluated;

(3) a structure for the coordination of the agricultural libraries of colleges and universities, Department of Agriculture libraries, and their closely allied information gathering and disseminating units be established in close conjunction with private industry and other research libraries;

(4) effective access by all colleges and universities and Department of Agriculture per-

sonnel to literature and information regarding the food and agricultural sciences be provided; and

(5) programs for training in information utilization with respect to the food and agricultural sciences, including research grants for librarians, information scientists, and agricultural scientists be established or strengthened.

(b) Food and Nutrition and Education Resources Center

There is established within the National Agricultural Library of the Department of Agriculture a Food and Nutrition Information and Education Resources Center. Such Center shall be responsible for—

(1) assembling and collecting food and nutrition education materials, including the results of nutrition research, training methods, procedures, and other materials related to the purpose of this chapter;

(2) maintaining such information and materials in a library; and

(3) providing for the dissemination of such information and materials on a regular basis to State educational agencies and other interested persons.

(c) Authorization of appropriations

Funds are authorized to be appropriated annually in such amounts as Congress may determine necessary to support the purposes of this section. The Secretary is authorized to carry out this section with existing facilities through the use of grants, contracts, or such other means as the Secretary deems appropriate and to require matching of funds. No funds appropriated to support the purposes of this section shall be used to purchase additional equipment unless specifically authorized by law subsequent to September 29, 1977.

(Pub. L. 95-113, title XIV, § 1411, Sept. 29, 1977, 91 Stat. 990.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (b)(1), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3127. Support for Joint Council on Food and Agricultural Science and for National Agricultural Research and Extension Users Advisory Board

(a) Appointment of staff

To assist the Joint Council and Advisory Board in the performance of their duties, the Secretary is authorized to appoint—

(1) not to exceed five full-time professional staff employees qualified in the food and agricultural sciences, and

(2) an executive director for such staff who shall perform such duties as the chairmen of the Joint Council and the chairman of the Advisory Board may direct, and who shall receive compensation at a rate not in excess of the rate for GS-18 in the General Schedule set out in section 5332 of title 5.

(b) Additional clerical assistance and staff personnel

The Secretary shall provide such additional clerical assistance and staff personnel as may be required to assist the Joint Council and Advisory Board in carrying out their duties.

(c) Assistance of outside personnel

In formulating their recommendations to the Secretary, the Joint Council and Advisory Board may obtain the assistance of Department of Agriculture employees, and, to the maximum extent practicable, the assistance of employees of other Federal departments and agencies conducting related programs of agricultural research, extension, and teaching and of appropriate representatives of colleges and universities, including State agricultural experiment stations, cooperative extension services, and other non-Federal organizations conducting significant programs in the food and agricultural sciences.

(Pub. L. 95-113, title XIV, § 1412, Sept. 29, 1977, 91 Stat. 991.)

§ 3128. General provisions

(a) Any vacancy in the Joint Council or the Advisory Board shall not affect their powers under this title and shall be filled in the same manner as the original position.

(b) Members of the Joint Council and Advisory Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services under this chapter, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5.

(Pub. L. 95-113, title XIV, § 1413, Sept. 29, 1977, 91 Stat. 991.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (b), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER III—AGRICULTURAL RESEARCH AND EDUCATION GRANTS AND FELLOWSHIPS

§ 3151. Grants to establish or expand schools of veterinary medicine

(a) Matching formula

The Secretary shall conduct a program of grants to States for the purpose of meeting the costs of construction, employing faculty, acquiring equipment, and taking other action re-

lating to the initial establishment and initial operation of schools of veterinary medicine, or the expansion of existing schools of veterinary medicine, as determined by the Secretary by regulations. This grant program shall be based on a matching formula of 50 per centum Federal and 50 per centum State funding.

(b) Preferences

Except with respect to the States of Alaska and Hawaii, the Secretary shall give preference in awarding grants to States which file, with their application for funds under this section, assurances satisfactory to the Secretary that—

(1) the State has established, or has made a reasonable effort to establish, a veterinary medical training program with one or more States without colleges of veterinary medicine which consists of appropriate cooperative agreements providing for a sharing of curriculum and costs by the individual States; and

(2) the clinical training of the school to be established or expanded shall emphasize care and preventive medical programs for food-producing animals.

Notwithstanding clause (1) of this subsection, no State which the Secretary determines has made a reasonable effort to establish appropriate cooperative agreements shall be denied a grant or otherwise prejudiced because of its failure to establish such cooperative agreements.

(c) Apportionment and distribution of funds

Funds appropriated to carry out this section for any fiscal year shall be apportioned and distributed as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to eligible States, and program coordination.

(2) The remainder shall be apportioned and distributed by the Secretary to those States which have applied for funds under this section on such basis as the Secretary may deem appropriate: *Provided,* That not less than 50 per centum of such funds shall be made available to States which have accredited schools of veterinary medicine.

(Pub. L. 95-113, title XIV, § 1415, Sept. 29, 1977, 91 Stat. 993.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3152. Grants and fellowships for food and agricultural sciences education

(a) Grant categories

The Secretary shall conduct a program of competitive grants for all colleges and universities for the purpose of furthering education in the food and agricultural sciences. These grants shall be made in the following two categories:

(1) Grants to strengthen programs of training and research in the food and agricultural sciences for scientists at the graduate and postdoctoral levels at all colleges and universities. Grants in this category may be used for exploratory research by such scientists, the acquisition of instruments, equipment, and facilities for research and training and other programs and activities aimed at meeting departmental, interdepartmental, or institution-wide training and research needs, or a combination thereof. Grants shall be made on a competitive basis and may cover periods not to exceed four years. Competition for such grants shall be open to all colleges and universities in the United States which have a capacity for teaching, research, and the dissemination of research results in the food and agricultural sciences or which are establishing such programs.

(2) Grants to strengthen undergraduate programs in the food and agricultural sciences at all colleges and universities. Grants in this category may be used to support programs designed to improve such undergraduate programs through traditional or non-traditional courses, curriculums, or teaching modes. Grants shall be made on a competitive basis and may cover periods not to exceed two years. Competition for such grants shall be open to all colleges and universities or to groups of such institutions which individually or collectively have a capacity for teaching, research, and the dissemination of research results in the food and agricultural sciences or which are establishing such programs.

(b) Predoctoral and postdoctoral fellowships

The Secretary shall conduct a program of predoctoral and postdoctoral fellowships in the food and agricultural sciences. These fellowships shall be made in the following two categories:

(1) Predoctoral fellowships, each for a period of up to four years. The purpose of these fellowships shall be to provide training and increase research capabilities in areas of need as identified by each State. These fellowships shall be awarded on the basis of merit, as determined by review panels established annually by the Secretary, to graduate students from each of the States, if the following criteria are satisfied:

(A) the student is enrolled in a graduate degree program in a college or university; and

(B) the student intends to pursue or is pursuing a course of study in the food and agricultural sciences which is directly related to an area of need as identified by the Governor or chief executive officer of the State.

At least three such fellowships shall be awarded to students from each State in every year.

(2) Postdoctoral fellowships, each for a period of from one to five years. The purpose of these fellowships shall be to attract highly promising investigators to research careers in the basic sciences related to agriculture and to provide stipends and research support for their training and establishment as independent investigators. In making awards under this paragraph, the Secretary shall give priority to individuals doing basic research at colleges and universities.

(c) Transfer of funds

Funds authorized in section 329 of this title, are transferred to and shall be administered by the Secretary of Agriculture.

(d) Authorization of appropriations

There are hereby authorized to be appropriated for the purposes of carrying out the provisions of this section $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

(Pub. L. 95-113, title XIV, § 1417, Sept. 29, 1977, 91 Stat. 996.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 3153. National Agricultural Research Award

(a) Establishment

The Secretary shall establish the National Agricultural Research Award for research or advanced studies in the food and agricultural sciences. Two such awards, one for each of the categories described in subsection (c) of this section, shall be made in each fiscal year.

(b) Amount and term

The awards shall not exceed $50,000 per year for a period of not to exceed three years to support research or study by the recipient.

(c) Categories

Awards under this section shall be made in each fiscal year in two categories as follows:

(1) to a scientist in recognition of outstanding contributions to the advancement of the food and agricultural sciences; and

(2) to a research scientist in early career development or a graduate student, in recognition of demonstrated capability and promise of significant future achievement in the food and agricultural sciences.

(d) Nominating and selection committees

The Secretary may establish such nominating and selection committees, to consist of scientists and others, to receive nominations and make recommendations for awards under this section, as the Secretary deems appropriate.

(Pub. L. 95-113, title XIV, § 1418, Sept. 29, 1977, 91 Stat. 997.)

§ 3154. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products, and agricultural chemicals and other products from coal derivatives

The Secretary shall make grants under this section to colleges and universities for the purpose of conducting research related to the production and marketing of (1) coal tar, producer gas, and other coal derivatives for the manufacture of agricultural chemicals, methanol, methyl fuel, and alcohol-blended motor fuel (such agricultural chemicals to include, but not be limited to, fertilizers, herbicides, insecticides, and pesticides), (2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products, and (3) other industrial hydrocarbons made from agricultural commodities and forest products. There are hereby authorized to be appropriated for the purposes of carrying out the provision of this section, $3,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the four subsequent fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982: *Provided*, That the total amount of such appropriations shall not exceed $24,000,000 during the five-year period beginning October 1, 1977, and ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year: *Provided further*, That not more than a total of $3,000,000 may be awarded to the colleges and universities of any one State.

(Pub. L. 95-113, title XIV, § 1419, Sept. 29, 1977, 91 Stat. 997.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

SUBCHAPTER IV—NATIONAL FOOD AND HUMAN NUTRITION RESEARCH AND EXTENSION PROGRAM

§ 3171. Congressional findings and declaration of policy

(a) Findings

Congress finds that there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States: that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effects of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States agricultural policy; that there is insufficient knowledge concerning precise human nutritional requirements, the interaction of the various nutritional constituents of food, and differences in nutritional requirements among different population groups such as infants, children, adolescents, elderly men and women, and pregnant women; and that there is a critical need for objective data concerning food safety, the potential of food enrichment, and means to encourage better nutritional practices.

(b) Declaration of policy

It is declared to be the policy of the United States that the Department of Agriculture conduct research in the fields of human nutrition and the nutritive value of foods and conduct human nutrition education activities, as provided in this subchapter.

(Pub. L. 95-113, title XIV, § 1421, Sept. 29, 1977, 91 Stat. 999.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3177 of this title.

§ 3172. Duties of Secretary of Agriculture

In order to carry out the policy of this subchapter, the Secretary shall develop and implement a national food and human nutrition research and extension program that shall include, but not be limited to—

(1) research on human nutritional requirements;

(2) research on the nutrient composition of foods and the effects of agricultural practices, handling, food processing, and cooking on the nutrients they contain;

(3) surveillance of the nutritional benefits provided to participants in the food programs administered by the Department of Agriculture;

(4) research on the factors affecting food preference and habits; and

(5) the development of techniques and equipment to assist consumers in the home or in institutions in selecting food that supplies a nutritionally adequate diet.

(Pub. L. 95-113, title XIV, § 1422, Sept. 29, 1977, 91 Stat. 999.)

§ 3173. Research by Department of Agriculture

(a) Increase in level of support

The Secretary shall establish research into food and human nutrition as a separate and distinct mission of the Department of Agriculture, and the Secretary shall increase support for such research to a level that provides resources adequate to meet the policy of this subchapter.

(b) Periodic consultation with administrators of other Federal departments and agencies

The Secretary, in administering the food and human nutrition research program, shall periodically consult with the administrators of the other Federal departments and agencies that have responsibility for programs dealing with human food and nutrition, as to the specific research needs of those departments and agencies.

(Pub. L. 95-113, title XIV, § 1423, Sept. 29, 1977, 91 Stat. 999.)

§ 3174. Study assessing potential value and cost of establishing regional food and human nutrition research centers

The Secretary shall perform a study assessing the potential value and cost of establishing regional food and human nutrition research centers in the United States. This assessment shall examine the feasibility of using existing Federal facilities in establishing such centers. The Secretary shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings, as a part of the plan the Secretary is required to submit to Congress pursuant to section 3177 of this title, not later than one year after October 1, 1977.

(Pub. L. 95-113, title XIV, § 1424, Sept. 29, 1977, 91 Stat. 1000.)

§ 3175. Nutrition education program

(a) Establishment

The Secretary shall establish a national education program which shall include, but not be limited to, the dissemination of the results of food and human nutrition research performed or funded by the Department of Agriculture.

(b) Expansion of existing programs

In order to enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded food and nutrition education program presently conducted under section 343(d) of this title, shall be expanded to provide for the employment and training of professional and paraprofessional aides to engage in direct nutrition education of low-income families and in other appropriate nutrition education programs. Funds for carrying out the provisions of this subsection shall be allocated to each State in an amount which bears the same ratio to the total amount to be allocated as the population of the State living at or below 125 per centum of the income poverty guidelines prescribed by the Office of Management and Budget (adjusted pursuant to section 2971d of title 42), bears to the total population of all the States living at or below 125 per centum of the income poverty guidelines, as determined by the last preceding decennial census at the time each such sum is first appropriated. To the maximum extent practicable, program aides shall be hired from the indigenous target population. The provisions of this subsection shall not preclude the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subsection.

(Pub. L. 95-113, title XIV, § 1425, Sept. 29, 1977, 91 Stat. 1000.)

§ 3176. Nutrition education materials

In order to encourage nutrition education programs in the classrooms and lunchrooms of elementary and secondary schools, the Secretary shall, in consultation with appropriate officers in the Department of Health, Education, and Welfare, develop and distribute to State departments of education a comprehensive set of educational materials on food and nutrition education which shall be appropriate for all levels of the elementary and secondary education system.

(Pub. L. 95-113, title XIV, § 1426, Sept. 29, 1977, 91 Stat. 1000.)

§ 3177. Report to Congress

The Secretary shall submit a comprehensive plan for implementing the national food and human nutrition research and extension program provided for by this subtitle to Congress

within one year after October 1, 1977. The plan shall include, but not be limited to, recommendations relating to research direction, funding levels, needed facilities grants, and use of Federal facilities in cooperation with States and others, necessary to achieve the policy set forth in section 3171 of this title.

(Pub. L. 95-113, title XIV, § 1427, Sept. 29, 1977, 91 Stat. 1000.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3174 of this title.

§ 3178. Nutritional status monitoring

(a) Formulation of system

The Secretary and the Secretary of Health, Education, and Welfare shall formulate and submit to Congress, within ninety days after September 29, 1977, a proposal for a comprehensive nutritional status monitoring system, to include:

(1) an assessment system consisting of periodic surveys and continuous monitoring to determine: the extent of risk of nutrition-related health problems in the United States; which population groups or areas of the country face greatest risk; and the likely causes of risk and changes in the above risk factors over time;

(2) a surveillance system to identify remediable nutrition-related health risks to individuals or for local areas, in such a manner as to tie detection to direct intervention and treatment. Such system should draw on screening and other information from other health programs, including those funded under titles V, XVIII, and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1395 et seq., and 1396 et seq.] and section 330 of the Public Health Service Act [42 U.S.C. 254c]; and

(3) program evaluations to determine the adequacy, efficiency, effectiveness, and side effects of nutrition-related programs in reducing health risks to individuals and populations.

(b) Coordination of existing activities; recommendation for necessary additional authorities

The proposal shall provide for coordination of activities under existing authorities and contain recommendations for any additional authorities necessary to achieve a comprehensive monitoring system.

(Pub. L. 95-113, title XIV, § 1428, Sept. 29, 1977, 91 Stat. 1001.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title V of the Social Security Act is classified principally to subchapter V (§ 701 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SUBCHAPTER V—ANIMAL HEALTH AND DISEASE RESEARCH

§ 3191. Congressional findings and declaration of purpose

It is the purpose of this subchapter to promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals which are essential to the Nation's food supply and the welfare of producers and consumers of animal products; to improve the health of horses; to facilitate the effective treatment of, and, where possible, prevent, animal and poultry diseases in both domesticated and wild animals which, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the Nation's food supply; to minimize livestock and poultry losses due to transportation and handling; to protect human health through control of animal diseases transmissible to humans; to improve methods of controlling the births of predators and other animals; and otherwise to promote the general welfare through expanded programs of research and extension to improve animal health. It is recognized that the total animal health and disease research and extension efforts of the several State colleges and universities and of the Federal Government would be more effective if there were close coordination between such programs, and it is further recognized that colleges and universities having accredited colleges of veterinary medicine or departments of veterinary sciences or animal pathology, and similar units conducting animal health and disease research in the State agricultural experiment stations, are especially vital in training research workers in animal health.

(Pub. L. 95-113, title XIV, § 1429, Sept. 29, 1977, 91 Stat. 1001.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3199 of this title.

§ 3192. Definitions

When used in this subchapter—

(1) the term "eligible institution" means any college or university having an accredited college of veterinary medicine or a department of veterinary science or animal pathology, or a similar unit conducting animal health and disease research in a State agricultural experiment station;

(2) the term "dean" means the dean of a college or university which qualifies as an eligible institution;

(3) the term "director" means the director of a State agricultural experiment station which qualifies as an eligible institution;

(4) the term "Board" means the Animal Health Science Research Advisory Board; and

(5) the term "animal health research capacity" means the capacity of an eligible institution to conduct animal health and disease research, as determined by the Secretary.

(Pub. L. 95-113, title XIV, § 1430, Sept. 29, 1977, 91 Stat. 1002.)

§ 3193. Authorization of Secretary of Agriculture with regard to State programs

In order to carry out the purpose of this subchapter, the Secretary is authorized to cooperate with, encourage, and assist the States in carrying out programs of animal health and disease research at eligible institutions in the manner hereinafter described in this subchapter.

(Pub. L. 95-113, title XIV, § 1431, Sept. 29, 1977, 91 Stat. 1002.)

§ 3194. Animal Health Science Research Advisory Board

(a) Establishment; membership

The Secretary shall establish a board to be known as the Animal Health Science Research Advisory Board which shall have a term of five years, and which shall be composed of the following eleven members—

(1) a representative of the Agricultural Research Service of the Department of Agriculture,

(2) a representative of the Cooperative State Research Service of the Depatment[1] of Agriculture,

(3) a representative of the Animal and Plant Health Inspection Service of the Department of Agriculture,

(4) a representative of the Bureau of Veterinary Medicine of the Food and Drug Administration of the Department of Health, Education, and Welfare, and

(5) seven members appointed by the Secretary—

(A) two persons representing accredited colleges of veterinary medicine,

(B) two persons representing State agricultural experiment stations, and

(C) three persons representing national livestock and poultry organizations.

The members shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5.

(b) Meetings

The Board shall meet at the call of the Secretary, but at least once annually, to consult with and advise the Secretary with respect to the implementation of this subchapter and to recommend immediate priorities for the conduct of research programs authorized under subchapter, under such rules and procedures for conducting business as the Secretary shall, in the Secretary's discretion, prescribe.

(Pub. L. 95-113, title XIV, § 1432, Sept. 29, 1977, 91 Stat. 1002.)

§ 3195. Continuing animal health and disease research programs

(a) Authorization of appropriations

There are authorized to be appropriated such funds, not to exceed $25,000,000 annually, as Congress may determine necessary to support continuing animal health and disease research programs at eligible institutions. Funds appropriated under this section shall be used: (1) to meet expenses of conducting animal health and disease research, publishing and disseminating the results of such research, and contributing to the retirement of employees subject to the provisions of section 331 of this title; (2) for administrative planning and direction; and (3) to purchase equipment and supplies necessary for conducting such research.

(b) Apportionment of appropriated funds

Funds appropriated under subsection (a) of this section for any fiscal year shall be apportioned as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to the eligible institutions, and program coordination.

(2) Forty-eight per centum shall be distributed among the several States in the proportion that the value of and income to producers from domestic livestock and poultry in each State bears to the total value of and income to producers from domestic livestock and poultry in all the States. The Secretary shall determine the total value of and income from domestic livestock and poultry in all the States and the proportionate value of and income from domestic livestock and poultry for each State, based on the most current inventory of all cattle, sheep, swine, horses, and poultry published by the Department of Agriculture.

(3) Forty-eight per centum shall be distributed among the several States in the proportion that the animal health research capacity of the eligible institutions in each State bears to the total animal health research capacity in all the States. The Secretary shall determine the animal health research capacity of the eligible institutions with the advice, when available, of the Board.

(c) Development of program for each State

In each State with one or more accredited colleges of veterinary medicine, the deans of the accredited college or colleges and the director of the State agricultural experiment station shall develop a comprehensive animal health and disease research program for the State based on the animal health research capacity of each eligible institution in the State, which shall be submitted to the Secretary for approval and shall be used for the allocation of funds available to the State under this section.

[1] So in original. Probably should be "Department".

(d) Use of excess funds

When the amount available under this section for allotment to any State on the basis of domestic livestock and poultry values and income exceeds the amount for which the eligible institution or institutions in the State are eligible on the basis of animal health research capacity, the excess may be used, at the discretion of the Secretary, for remodeling of facilities, construction of new facilities, or increase in staffing, proportionate to the need for added research capacity.

(e) Reallocation of funds to new colleges of veterinary medicine

Whenever a new college of veterinary medicine is established in a State and is accredited, the Secretary, after consultation with the dean of such college and the director of the State agricultural experiment station and, where applicable, deans of other accredited colleges in the State, shall provide for the reallocation of funds available to the State pursuant to subsection (b) of this section between the new college and other eligible institutions in the State, based on the animal health research capacity of each eligible institution.

(f) Joint establishment or support of accredited regional college of veterinary medicine

Whenever two or more States jointly establish an accredited regional college of veterinary medicine or jointly support an accredited college of veterinary medicine serving the States involved, the Secretary is authorized to make funds which are available to such States pursuant to subsection (b)(2) of this section available for such college in such amount that reflects the combined relative value of and income from domestic livestock and poultry in the cooperating States, such amount to be adjusted, as necessary, pursuant to the provisions of subsections (c) and (e) of this section.

(Pub. L. 95-113, title XIV, § 1433, Sept. 29, 1977, 91 Stat. 1003.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3198, 3199 of this title.

§ 3196. Research on national and regional animal health or disease problems

(a) Authorization of appropriations

There are authorized to be appropriated such funds, not to exceed $15,000,000 annually, as Congress may determine necessary to support research on specific national or regional animal health or disease problems.

(b) Allocation of appropriated funds

Funds appropriated under this section shall be allocated by the Secretary to eligible institutions for work to be done, as mutually agreed upon between the Secretary and the eligible institution or institutions. The Secretary shall, whenever possible, consult the Board in developing plans for the use of these funds.

(Pub. L. 95-113, title XIV, § 1434, Sept. 29, 1977, 91 Stat. 1004.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3200 of this title.

§ 3197. Availability of appropriated funds

Funds available for allocation under the terms of this subchapter shall be paid to each State or eligible institution at such times and in such amounts as shall be determined by the Secretary. Funds shall remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

(Pub. L. 95-113, title XIV, § 1435, Sept. 29, 1977, 91 Stat. 1004.)

§ 3198. Withholding of appropriated funds

If the Secretary determines that a State is not entitled to receive its allocation of the annual appropriation under section 3195 of this title because of its failure to satisfy requirements of this subtitle or regulations issued under it, the Secretary shall withhold such amount. The facts and reasons concerning the determination and withholding shall be reported to the President; and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(Pub. L. 95-133, title XIV, § 1436, Sept. 29, 1977, 91 Stat. 1004.)

§ 3199. Requirements for use of funds

With respect to research projects on problems of animal health and disease to be performed at eligible institutions and supported with funds allocated to the States under section 3195 of this title, the dean or director of each eligible institution shall cause to be prepared and shall review proposals for such research projects, which contain data showing compliance with the purpose in section 3191 of this title and the provisions for use of funds specified in section 3195(a) of this title, and with general guidelines for project eligibility to be provided by the Secretary with the advice, when available, of the Board. Such research proposals that are approved by the dean or director shall be submitted to the Secretary prior to assignment of funds thereto with a brief summary showing compliance with the provisions of this subtitle and the Secretary's general guidelines.

(Pub. L. 95-113, title XIV, § 1437, Sept. 29, 1977, 91 Stat. 1004.)

§ 3200. Matching funds

No funds in excess of $100,000, exclusive of the funds provided for research on specific national or regional animal health and disease problems under the provisions of section 3196 of this title, shall be paid by the Federal Government to any State under this subchapter during any fiscal year in excess of the amount from non-Federal sources made available to and budgeted for expenditure by eligible institu-

tions in the State during the same fiscal year for animal health and disease research. The Secretary is authorized to make such payments in excess of $100,000 on the certificate of the appropriate official of the eligible institution having charge of the animal health and disease research for which such payments are to be made. If any eligible institution certified for receipt of matching funds fails to make available and budget for expenditure for animal health and disease research in any fiscal year sums at least equal to the amount for which it is certified, the difference between the Federal matching funds available and the funds made available to and budgeted for expenditure by the eligible institution shall be reapportioned by the Secretary among other eligible institutions of the same State, if there are any which qualify therefor, and, if there are none, the Secretary shall reapportion such difference among the other States.

(Pub. L. 95-113, title XIV, § 1438, Sept. 29, 1977, 91 Stat. 1005.)

§ 3201. Funds appropriated or otherwise made available pursuant to other provisions of law

The sums appropriated and allocated to States and eligible institutions under this subchapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to such States and institutions pursuant to other provisions of law.

(Pub. L. 95-113, title XIV, § 1439, Sept. 29, 1977, 91 Stat. 1005.)

SUBCHAPTER VI—1890 LAND GRANT COLLEGE FUNDING

§ 3221. Extension at 1890 land grant colleges, including Tuskegee Institute

(a) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural and forestry extension at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including Tuskegee Institute (hereinafter in this section referred to as "eligible institutions"). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 4 per centum of the total appropriations for such year under the Act of May 8, 1914 (38 Stat. 372-374, as amended; 7 U.S.C. 341-349): *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available for the fiscal year ending September 30, 1978, to such eligible institutions under section 343(d) of this title. Funds appropriated under this section shall be used for expenses of conducting extension programs and activities, and for contributing to the retirement of employees subject to the provisions of section 331 of this title. No more than 20 per centum of the funds received by an institution in any fiscal year may be carried forward to the succeeding fiscal year.

(b) Allocation and distribution of appropriated funds

Beginning with the fiscal year ending September 30, 1979—

(1) any funds annually appropriated under this section up to the amount appropriated for the fiscal year ending September 30, 1978, pursuant to section 343(d) of this title, for eligible institutions, shall be allocated among the eligible institutions in the same proportion as funds appropriated under section 343(d) of this title for the fiscal year ending September 30, 1978, are allocated among the eligible institutions; and

(2) any funds appropriated annually under this section in excess of an amount equal to the amount appropriated under section 343(d) of this title, for the fiscal year ending September 30, 1978, for eligible institutions, shall be distributed as follows:

(A) A sum equal to 4 per centum of the total amount appropriated each fiscal year under this section shall be allotted to the Extension Service of the Department of Agriculture for administrative, technical, and other services, and for coordinating the extension work of the Department of Agriculture and the several States.

(B) Of the remainder, 20 per centum shall be allotted among the eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census.

In computing the distribution of funds allocated under paragraph (2) of this subsection, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) Comprehensive program of extension for each State

The State director of the cooperative extension service and the administrative head for extension at the eligible institution in each State where an eligible institution is located shall jointly develop, by mutual agreement, a comprehensive program of extension for such State to be submitted for approval by the Secretary within one year after September 29, 1977.

(d) Payment of funds to eligible institutions

On or about the first day of October in each year after September 29, 1977, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriation for extension work under this section and the amount which it is entitled to receive. Before the funds herein provided shall

become available to any eligible institution for any fiscal year, plans for the work to be carried out under this section shall be submitted by the proper officials of each institution and approved by the Secretary. Such sums shall be paid in equal quarterly payments on or about October 1, January 1, April 1, and July 1 of each year to the treasurer or other officer of the eligible institution duly authorized to receive such payments and such officer shall be required to report to the Secretary on or about the first day of December of each year a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary.

(e) Diminution, loss, or misapplication of funds

If any portion of the moneys received by any eligible institution for the support and maintenance of extension work as provided in this section shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be apportioned or paid to such institution. No portion of such moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college course teaching, lectures in college, or any other purpose not specified in this section. It shall be the duty of such institution, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed report of its operations in extension work, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary.

(f) Secretary's finding of non-entitlement to appropriated funds

If the Secretary finds that an eligible institution is not entitled to receive its share of the annual appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the next Congress in order that the institution may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(g) Mailing of correspondence, bulletins, and reports

To the extent that the official mail consists of correspondence, bulletins, and reports for furtherance of the purposes of this section, it shall be transmitted in the mails of the United States under penalty indicia: *Provided,* That each item shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such items may be mailed from a principal place of business of each eligible institution or from an established subunit of such institution.

(Pub. L. 95-113, title XIV, § 1444, Sept. 29, 1977, 91 Stat. 1007.)

REFERENCES IN TEXT

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Act of May 8, 1914, 38 Stat. 372, as amended, referred to in subsec. (a), is popularly known as the "Smith-Lever Act", and is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3222. Agricultural research at 1890 land grant colleges, including Tuskegee Institute

(a) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural research at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including Tuskegee Institute (hereinafter referred to in this section as "eligible institutions"). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 15 per centum of the total appropriations for such year under section 361c of this title: *Provided,* That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available in the fiscal year ending September 30, 1978, to such eligible institutions under the Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 450i). Funds appropriated under this section shall be used for expenses of conducting agricultural research, printing, disseminating the results of such research, contributing to the retirement of employees subject to the provisions of section 331 of this title, administrative planning and direction, and purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research. The eligible institutions are authorized to plan and conduct agricultural research in cooperation with each other and such agencies, institutions, and individuals as may contribute to the solution of agricultural problems, and moneys appropriated pursuant to this section shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(b) Allocation and distribution of appropriated funds

Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

(1) Three per centum shall be available to the Secretary for administration of this section.

(2) The remainder shall be allotted among the eligible institutions as follows:

(A) $100,000 to each eligible institution.

(B) Of the remaining funds, one-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the State in which the eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State in which the eligible institution is located bears to the total farm population of all the States in which eligible institutions are located, as determined by the last preceding decennial census.

In computing the distribution under this paragraph, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) Comprehensive program of agricultural research for each State

The director of the State agricultural experiment station in each State where an eligible institution is located and the chief administrative officer specified in subsection (d) of this section in each of the eligible institutions in such State shall jointly develop, by mutual agreement, a comprehensive program of agricultural research in such State, to be submitted for approval by the Secretary within one year after September 29, 1977.

(d) Payment of funds to eligible institutions

Sums available for allotment to the eligible institutions under the terms of this section shall be paid to such institutions in equal quarterly payments beginning on or about the first day of October of each year upon vouchers approved by the Secretary. The President of each eligible institution shall appoint a chief administrative officer who shall be responsible for administration of the program authorized herein. Each eligible institution shall designate a treasurer or other officer who shall receive and account for all funds allotted to such institution under the provisions of this section and shall report, with the approval of the chief administrative officer, to the Secretary on or before the first day of December of each year a detailed statement of the amount received under the provisions of this section during the preceding fiscal year and its disbursement on schedules prescribed by the Secretary. If any portion of the allotted moneys received by any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be allotted or paid to such institution. Funds made available to eligible institutions shall not be used for payment of negotiated overhead or indirect cost rates.

(e) Mailing of bulletins, reports, periodicals, reprints, articles, and other publications

Bulletins, reports, periodicals, reprints or articles, and other publications necessary for the dissemination of results of the research and experiments funded under this section, including lists of publications available for distribution by the eligible institutions, shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each publication shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such publications may be mailed from the principal place of business of each eligible institution or from an established subunit of such institution.

(f) Administration; rules and regulations; cooperation by and between institutions

The Secretary shall be responsible for the proper administration of this section, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such advice and assistance as will best promote the purposes of this section, including participation in coordination of research initiated under this section by the eligible institutions, from time to time to indicate such lines of inquiry as to the Secretary seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several eligible institutions, the State agricultural experiment stations, and between them and the Department of Agriculture.

(g) Entitlement; unexpended appropriations; reports to Congress

(1) On or before the first day of October in each year after September 29, 1977, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriations under this section and the amount which thereupon each is entitled, respectively, to receive.

(2) Whenever it shall appear to the Secretary from the annual statement of receipts and expenditures of funds by any eligible institution that any portion of the preceding annual appropriation allotted to that institution under this section remains unexpended, such amount shall be deducted from the next succeeding annual allotment to the institution.

(3) If the Secretary withholds from any eligible institution any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(4) The Secretary shall make an annual report to Congress during the first regular session of each year of the receipts and expenditures and work of the eligible institutions under the provisions of this section and also whether any portion of the appropriation available for

allotment to any institution has been withheld and if so the reasons therefor.

(h) Existing legal relationships not impaired or modified

Nothing in this section shall be construed to impair or modify the legal relationship existing between any of the eligible institutions and the government of the States in which they are respectively located.

(Pub. L. 95-113, title XIV, § 1445, Sept. 29, 1977, 91 Stat. 1009.)

REFERENCES IN TEXT

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 450i), referred to in subsec. (a), is Pub. L. 89-106, Aug. 4, 1965, 79 Stat. 431, which enacted sections 450i, 2250a, 2262, and 2263 of this title, amended sections 1704, 1762, 1884, and 2235 of this title, and repealed section 608f of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390c of this title.

SUBCHAPTER VII—SOLAR ENERGY RESEARCH AND DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3103, 3311 of this title.

PART A—COMPETITIVE GRANT PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3281 of this title.

§ 3241. Farm and forest uses of solar energy; nonrenewable fuel and petrochemical substitutes

The Secretary shall carry out a program of competitive grants to persons and organizations, subject to the requirements and conditions provided for in sections 450i(e), 450i(f), and 450i(h) of this title, for carrying out research and development relating to—

(1) uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including, but not limited to, equipment used to dry or cure farm crops or forest products, or to provide irrigation); and

(2) uses of biomass derived from solar energy, including farm and forest products, byproducts, and residues, as substitutes for nonrenewable fuels and petrochemicals.

(Pub. L. 95-113, title XIV, § 1449, Sept. 29, 1977, 91 Stat. 1012.)

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

PART B—INFORMATION SYSTEM AND ADVISORY COMMITTEE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3281 of this title.

§ 3251. Solar energy research information system

The Secretary shall, through the Cooperative State Research Service and other agencies within the Department of Agriculture which the Secretary considers appropriate, in consultation with the Energy Research and Development Administration, other appropriate United States Government agencies, the National Academy of Sciences, and private and nonprofit institutions involved in solar energy research projects, by June 1, 1978, and by June 1 in each year thereafter, make a compilation of solar energy research projects related to agriculture which are being carried out during such year by Federal, State, private, and nonprofit institutions and, where available, the results of such projects. Such compilations may include, but are not limited to, projects dealing with heating and cooling methods for farm structures and dwellings (such as greenhouses, curing barns, and livestock shelters), storage of power, operation of farm equipment (including irrigation pumps, crop dryers and curers, and electric vehicles), and the development of new technologies to be used on farms which are powered by other than fossil fuels or derivatives thereof.

(Pub. L. 95-113, title XIV, § 1450, Sept. 20, 1977, 91 Stat. 1012.)

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3252. Advisory committee

In order to assist the Secretary in carrying out functions assigned to the Secretary under part C of this subchapter, the Secretary is authorized to establish an advisory committee within the Department of Agriculture or utilize an existing advisory committee, if a suitable one exists, for such purposes.

(Pub. L. 95-113, title XIV, § 1451, Sept. 29, 1977, 91 Stat. 1013.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

PART C—MODEL FARMS AND DEMONSTRATION PROJECTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3252 of this title.

§ 3261. Model farms

(a) Establishment and operation

In order to promote the establishment and operation of solar energy demonstration farms within each State, the Secretary shall distribute funds to carry out the activities described in subsections (b) and (c) of this section and section 3262 of this title to one or more of the following in each State: the State department of agriculture, the State cooperative extension service, the State agricultural experiment station, forestry schools eligible to receive funds under the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), or colleges and universities eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute (hereinafter in this part referred to as "eligible institutions"), in accordance with such rules and regulations as the Secretary may prescribe.

(b) Activities and responsibilities of fund recipients

The recipient or recipients in such State shall—

(1) establish at least one large model farm which—

(A) demonstrates all the solar energy projects determined by the Secretary, in consultation with the recipient or recipients, to be useful and beneficial to the State;

(B) is located in the State on land owned or operated by that State and, if practicable, on the State agricultural experiment station farm land; and

(C) includes other farming practices, such as raising livestock and crops, in order to provide a model of a farm which applies new and improved methods of agriculture through the use of solar energy as a means of heating, cooling, drying, or curing crops, and providing other farm needs;

(2) sell the products of the model farm established under paragraph (1) of this subsection and pay to the Secretary that portion of the proceeds received through each such sale as bears the same proportion to the total proceeds as the grants under this section bear to the total cost of operating the farm. The Secretary shall deposit such funds into a fund which shall be available without fiscal year limitation for use in carrying out the provisions of this part;

(3) provide tours of the model farm to farmers and other interested groups and individuals and, upon request, provide such farmers, groups, and individuals with information concerning the operation of such model farm and the demonstrations, if any, established by it under section 3262 of this title;

(4) determine the costs of energy, the income, and the total cost of the model farm; and

(5) annually compile a report concerning energy usage, income costs, operating difficulties, and farmer interest with respect to the model farm and the demonstrations, if any, established by it under section 3262 of this title, and submit the report to the Secretary along with any recommendations concerning project changes and specific needs of such farm or demonstrations.

(c) Extension of results

The results obtained from each model farm established under subsection (b) of this section which prove to be economically practical shall be extended to other farms in each State through the State cooperative extension service as part of its ongoing energy management and conservation education programs.

(Pub. L. 95–113, title XIV, § 1452, Sept. 29, 1977, 91 Stat. 1013.)

REFERENCES IN TEXT

The Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), referred to in subsec. (a), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3262 of this title.

§ 3262. Demonstration projects

(a) Establishment

During each calendar year after the first two calendar years for which eligible institutions in a State receive grants pursuant to section 3261 of this title the recipient or recipients of such grants in each State, in consultation with the Secretary, shall establish not less than ten demonstrations of solar energy projects which they shall select from among the projects demonstrated on the model farm established in the State pursuant to section 3261 of this title. Such demonstrations shall be carried out on farms which are already operating in the State.

(b) Activities and responsibilities of fund recipients

The recipient or recipients in each State shall enter into written agreements with persons who own farms and who are willing to carry out solar energy project demonstrations under this section. Such agreements shall include the following provisions concerning solar energy projects which the owners agree to demonstrate on such farms:

(1) The owner shall carry out the projects on the farm for such period as the Secretary determines to be necessary to fairly demonstrate them.

(2) Tools, equipment, seeds, seedlings, fertilizer, equipment, and other agricultural materials and technology which are necessary to carry out the projects and which, on the date

of such agreement, are not commonly being used on farms in such State, shall be provided by the recipient or recipients.

(3) During the demonstration period, the recipient or recipients, with the assistance of the Extension Service of the Department of Agriculture, shall provide the owner with technical assistance concerning such projects.

(4) During the demonstration period and for such other periods as the recipient or recipients deem necessary, the owner shall—

(A) keep a monthly record for the farm of changes, if any, in energy usage and costs, the amount of agricultural commodities produced, the costs of producing such amount, and the income derived from producing such amount, and of such other data concerning the projects as the recipient or recipients may require; and

(B) transmit to the recipient or recipients such monthly records, along with a report containing his or her findings, conclusions, and recommendations concerning the projects.

(5) During the demonstration period, the owner shall give tours of the farm to farmers and other interested groups and individuals and provide them with a summary of the costs of carrying out such projects.

(6) All right, title, and interest to any agricultural commodity produced on the farm as a result of the projects shall be in the owner.

(7) At the end of the demonstration period, the owner shall have all right, title, and interest to any materials and technology provided under paragraph (2) of this subsection.

(8) Such other provisions as the Secretary may, by rule, require.

(Pub. L. 95-113, title XIV, § 1453, Sept. 29, 1977, 91 Stat. 1014.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3261 of this title.

§ 3263. Authorization of appropriations

There are authorized to be appropriated for distribution to eligible institutions for use in establishing model farms and solar energy project demonstrations under the provisions of this part, $20,000,000 for the period beginning October 1, 1977, and ending September 30, 1981, and thereafter such sums as may subsequent to September 29, 1977, be authorized by law for any subsequent fiscal year.

(Pub. L. 95-113, title XIV, § 1454, Sept. 29, 1977, 91 Stat. 1015.)

PART D—REGIONAL SOLAR ENERGY RESEARCH AND DEVELOPMENT CENTERS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3281 of this title.

§ 3271. Establishment

In order to provide for agricultural research, development, and demonstration projects having a national or regional application, the Secretary shall establish in existing Federal facilities or in cooperation with State and local government agencies, including State departments of agriculture, colleges and universities, or other qualified persons and organizations, including local nonprofit research groups, not less than three nor more than five regional solar energy research, development, and demonstration centers in the United States for the performance of agricultural research, extension work, and demonstration projects relating to use of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation), to be variously located so as to reflect the unique solar characteristics of different latitudes and climatic regions within the United States. Funds used in the operation of such regional centers may be used for the rehabilitation of existing buildings or facilities to house such centers, but may not be used for the construction or acquisition of new buildings.

(Pub. L. 95-113, title XIV, § 1455, Sept. 29, 1977, 91 Stat. 1015.)

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

PART E—APPROPRIATIONS AND DEFINITIONS

§ 3281. Authorization of appropriations

There are authorized to be appropriated such funds as are necessary to carry out the provisions of parts A, B, and D of this subchapter.

(Pub. L. 95-113, title XIV, § 1456, Sept. 29, 1977, 91 Stat. 1015.)

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3282. Definitions

For purposes of this subchapter—

(1) the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.]; and

(2) the term "State" means any State of the United States, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, and the Virgin Islands of the United States.

(Pub. L. 95-113, title XIV, § 1457, Sept. 29, 1977, 91 Stat. 1015.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original, "this subtitle", meaning Pub. L. 95-113, title XIV, subtitle H, §§ 1446-1457, Sept. 29, 1977, 91 Stat. 1011, which enacted this subchapter and amended sections 341, 342, 427, 1923, and 1942 of this title. For complete classification of such subtitle H to the Code, see Tables.

The Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, referred to in par. (1) is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as

amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

SUBCHAPTER VIII—INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION

§ 3291. Authorized activities

The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, is authorized to—

(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural research and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to agriculture in the United States;

(2) assist the Agency for International Development with agricultural research and extension programs in developing countries;

(3) work with developed countries on agricultural research and extension, including the stationing of United States scientists at national and international institutions in such countries;

(4) assist United States colleges and universities in strengthening their capabilities for agricultural research and extension relevant to agricultural development activities overseas; and

(5) further develop within the Department of Agriculture highly qualified experienced scientists who specialize in international programs, to be available for the activities described in this section.

(Pub. L. 95-113, title XIV, § 1458, Sept. 29, 1977, 91 Stat. 1015.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SUBCHAPTER IX—STUDIES

§ 3301. Extension Service and cooperative extension services

The Secretary shall transmit to Congress, not later than March 31, 1979, an evaluation of the economic and social consequences of the programs of the Extension Service and the cooperative extension services, including those programs relating to agricultural production and distribution, home economics, nutrition education (including the Expanded Family and Nutrition Education Program), community development, and 4-H youth programs.

(Pub. L. 95-113, title XIV, § 1459, Sept. 29, 1977, 91 Stat. 1016.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3302. Weather and water allocation

The Secretary shall conduct a comprehensive study of the effects of changing climate and weather on crop and livestock productivity and, within twelve months September 29, 1977, submit to the President and Congress a report together with pertinent recommendations, on this study. The study shall include—

(1) an assessment of current climate and weather conditions in the United States and the possible impact of changes in climate and weather conditions on the Nation's economy and future food and feed availability and prices;

(2) a review of Federal and State water allocation policies; and

(3) a consideration of strategies and techniques for dealing with water shortages in the United States that could occur if current climate and weather conditions continue or become more severe.

(Pub. L. 95-113, title XIV, § 1460, Sept. 29, 1977, 91 Stat. 1016.)

§ 3303. Organic farming

The Secretary shall conduct, and, within twelve months after September 29, 1977, submit to the President and Congress a report containing the results of and the Secretary's recommendations concerning, an investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting or similarly treating such materials, and transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices.

(Pub. L. 95-113, title XIV, § 1461, Sept. 29, 1977, 91 Stat. 1016.)

§ 3304. Agricultural research facilities

(a) Report to President and Congress

The Secretary shall conduct a comprehensive study of the status and future needs of agricultural research facilities and, within fourteen months after September 29, 1977, submit to the President and Congress a report on this study.

(b) Report and recommendations

(1) The report shall cover agricultural research facilities and materials including, but not limited to, buildings and farms, laboratories, plant, seed, genetic stock, insect, virus, and animal collections, and lease and purchase items such as computers, laboratory instruments, and related equipment.

(2) The report shall include recommendations for a program to provide the United States with

the most modern and efficient system of research facilities needed to advance agricultural research in all fields, and recommendations with regard to priority requirements for research instrumentation and facilities needing modernization, construction, or renovation in accordance with the requirements of State, regional, and national priority programs of research and based on the fullest utilization of human, monetary, and physical resources.

(Pub. L. 95-113, title XIV, § 1462, Sept. 29, 1977, 91 Stat. 1017.)

SUBHCHAPTER X—FUNDING AND MISCELLANEOUS PROVISIONS

§ 3311. Authorization of appropriations

(a) Existing programs

Notwithstanding any authorization for appropriations for agricultural research in any Act enacted prior to September 29, 1977 enactment of this title, there are hereby authorized to be appropriated for the purposes of carrying out the provisions of this chapter, except subchapter VII of this chapter and sections 390 to 390j, 3152, 3154, and 2669 of this title, and the competitive grants program provided for in section 450i of this title, and except that the authorization for moneys provided under the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), is excluded and is provided for in subsection (b) of this section, $505,000,000 for the fiscal year ending September 30, 1978, $575,000,000 for the fiscal year ending September 30, 1979, $645,000,000 for the fiscal year ending September 30, 1980, $715,000,000 for the fiscal year ending September 30, 1981, and $780,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

(b) Agricultural research at State agricultural experiment stations

Notwithstanding any authorization for appropriations for agricultural research at State agricultural experiment stations in any Act enacted prior to September 29, 1977, there are authorized to be appropriated for the purpose of conducting agricultural research at State agricultural experiment stations pursuant to the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), $120,000,000 for the fiscal year ending September 30, 1978, $145,000,000 for the fiscal year ending September 30, 1979, $170,000,000 for the fiscal year ending September 30, 1980, $195,000,000 for the fiscal year ending September 30, 1981, and $220,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977 be authorized by law for any subsequent fiscal year.

(Pub. L. 95-113, title XIV, § 1463, Sept. 29, 1977, 91 Stat. 1017.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (a), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

Subchapter VII of this chapter, referred to in subsec. (a), read in the original, "subtitle H", meaning Pub. L. 95-113, title XIV, subtitle H, §§ 1446-1457, Sept. 29, 1977, 91 Stat. 1011, which enacted subchapter VII (§ 3241 et seq.) of this chapter and amended sections 341, 342, 427, 1923, and 1942 of this title. For complete classification of such Subtitle H to the Code, see Tables.

Sections 390 to 390j, referred to in subsec. (a), in the original read section 1416, meaning section 1416 of Pub. L. 95-113, which enacted sections 390c to 390j of this title, amended sections 390, 390a, and 390b of this title, and repealed section 390k of this title.

The Act of March 2, 1887, referred to in subsecs. (a) and (b), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

§ 3312. Authorization of appropriations for extension education

Notwithstanding any authorization for appropriations for the Cooperative Extension Service in any Act enacted prior to September 29, 1977, there are hereby authorized to be appropriated for the purposes of carrying out the extension programs of the Department of Agriculture $260,000,000 for the fiscal year ending September 30, 1978, $280,000,000 for the fiscal year ending September 30, 1979, $300,000,000 for the fiscal year ending September 30, 1980, $320,000,000 for the fiscal year ending September 30, 1981, and $350,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(Pub. L. 95-113, title XIV, § 1464, Sept. 29, 1977, 91 Stat. 1018.)

§ 3313. Payment of funds

Except as provided elsewhere in this Act or any other Act of Congress, funds available for allotment under this chapter shall be paid to each eligible institution or State at such time and in such amounts as shall be determined by the Secretary.

(Pub. L. 95-113, title XIV, § 1467, Sept. 29, 1977, 91 Stat. 1018.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3314. Withholding of funds

Except as provided elsewhere in this Act or any other Act of Congress, if the Secretary determines that an institution or State is not entitled to receive its allotment of an annual appropriation under any provision of this chapter because of a failure to satisfy requirements of this chapter or regulations issued under it, the Secretary shall withhold such amounts, the facts and reasons concerning the determination and withholding shall be reported to the President, and the amount involved shall be deposited in the miscellaneous receipts of the Treasury.

(Pub. L. 95-113, title XIV, § 1468, Sept. 29, 1977, 91 Stat. 1018.)

References in Text

This Act, referred to in text, is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3315. Auditing, reporting, bookkeeping, and administrative requirements

Except as provided elsewhere in this Act or any other Act of Congress—

(1) assistance provided under this chapter shall be subject to the provisions of sections 450i(e), 450i(f), and 450i(h) of this title;

(2) the Secretary shall provide that each recipient of assistance under this chapter shall submit an annual report, at such times and on such forms as the Secretary shall prescribe, stating the accomplishments of projects (on a project-by-project basis) for which such assistance was used and accounting for the use of all such assistance. If the Secretary determines that any portion of funds made available under this chapter has been lost or applied in a manner inconsistent with the provisions of this chapter or regulations issued thereunder the recipient of such funds shall reimburse the Federal Government for the funds lost or so applied, and the Secretary shall not make available to such recipient any additional funds under this Act until the recipient has so reimbursed the Federal Government;

(3) three per centum of the appropriations shall be retained by the Secretary for the administration of the programs authorized under this chapter; and

(4) the Secretary shall establish appropriate criteria for grant and assistance approval and necessary regulations pertaining thereto.

(Pub. L. 95-113, title XIV, § 1469, Sept. 29, 1977, 91 Stat. 1019.)

References in Text

This Act, referred to in provision preceding par. (1) and in par. (2), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in pars. (1), (2), and (3), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3316. Rules and regulations

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this chapter.

(Pub. L. 95-113, title XIV, § 1470, Sept. 29, 1977, 91 Stat. 1019.)

References in Text

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

CHAPTER 65—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION [NEW]

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§ 3401. Congressional findings and declaration of policy

(a) Wheat is basic to the American diet and the American economy. It is grown by thousands of farmers and consumed, in various forms, by millions of people in the United States.

(b) The size of the American wheat crop and how it is marketed and ultimately consumed determines whether many Americans receive adequate nourishment. Wheat has a strong impact on the Nation's well-being. Additional research on the optimal use of wheat products can improve the American diet. Consumer education about the nutritional value and economic use of wheat products can enhance the national welfare.

(c) It has long been recognized that it is in the national interest to have a regular, adequate, and high quality wheat supply. It would be extremely difficult, without an effective coordinated research and nutrition education effort, to accomplish this objective. A programed effort of research and nutrition education is of great importance to wheat producers, processors, end product manufacturers, and consumers.

(d) It is the purpose of this chapter and in the public interest to authorize and enable the creation of an orderly procedure, adequately financed through an assessment, for the development and initiation of an effective and continuous coordinated program of research and nutrition education, designed to improve and enhance the quality, and make the most efficient use, of American wheat, processed wheat, and wheat end products to ensue an adequate diet for the people of the United States. The maximum rate of assessment authorized hereunder represents an infinitesimal proportion of the overall cost of manufacturing wheat end products. Therefore, such assessment will not significantly affect the retail prices of those products. Furthermore, any price effect will be more than offset by the increased efficiency in end product manufacture and increased consumer acceptance, due to nutritional improvements in wheat products, which may be expected to follow from adoption of a plan under this chapter. Nothing in this chapter shall be construed to provide for control of production or otherwise limit the right of individual wheat producers to produce wheat.

(Pub. L. 95-113, title XVII, § 1702, Sept. 29, 1977, 91 Stat. 1031.)

EFFECTIVE DATE

Chapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SHORT TITLE

Section 1701 of Pub. L. 95-113 provided that: "This title [this chapter] may be cited as the 'Wheat and Wheat Foods Research and Nutrition Education Act'."

SEPARABILITY OF PROVISIONS

Section 1718 of Pub. L. 95-113 provided that: "If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby."

§ 3402. Definitions

For the purposes of this chapter:

(a) The term "wheat" means all classes of wheat grains grown in the United States.

(b) The term "processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

(c) The term "end product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

(d) The term "wheat producer" means any person who grows wheat within the United States for market.

(e) The term "processor" means any person who commercially produces processed wheat within the United States.

(f) The term "end product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

(g) The term "research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

(h) The term "nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

(i) The term "Council" means the Wheat Industry Council established pursuant to section 3405 of this title.

(j) The term "Department" means the United States Department of Agriculture.

(k) The term "Secretary" means the Secretary of Agriculture of the United States.

(*l*) The term "person" means any individual, partnership, corporation, association, or other entity.

(m) The term "United States" means the several States and the District of Columbia, including any territory or possession.

(Pub. L. 95-113, title XVII, § 1703, Sept. 29, 1977, 91 Stat. 1032.)

§ 3403. Issuance of orders

(a) Notice and hearing

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 3413 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary.

(b) Effectuation of Congressional policy

After notice and opportunity for hearing as provided in subsection (a) of this section, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 95-113, title XVII, § 1704, Sept. 29, 1977, 91 Stat. 1033.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3413 of this title.

§ 3404. Permissive terms and conditions of orders

Any order issued pursuant to this chapter shall contain one or more of the following terms and conditions, and, except as provided in section 3405 of this title, no others:

(a) Nutrition education plans

Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets with respect to wheat, processed wheat, and end products, and for the disbursement of necessary funds for such purposes: *Provided*, That in carrying out any such plan or project, no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against wheat, processed wheat, and end products of other person: *Provided further*, That no such plans or projects shall make use of unfair or deceptive acts or practices in behalf of wheat, processed wheat, and end products or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product;

(b) Research and studies

providing for the establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization, or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that the marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable, and for the disbursement of necessary funds for such purposes;

(c) Records and reports; confidential information; penalties

providing that processors, distributors of processed wheat, and end product manufacturers shall maintain and make available for inspection by the Secretary or the Council such books and records as may be required by any order issued pursuant to this title and for the filing of reports by such persons at the time, in the manner, and having the content prescribed by the order, to the end that information shall be made available to the Council and to the Secretary which are appropriate or necessary to the effectuation, administration, or enforcement of this chapter, or of any order or regulation issued pursuant to this chapter: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (3) the publication by direction of the Secretary of the name of any person who has been adjudged to have violated any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee of the Department, the Council, or a contracting agency violating the provisions of this clause shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for

not more than one year, or both, and if an officer or employee of the Council or Department shall be removed from office;

(d) Assessment exemption

providing for exemption of specified end products, or types or categories thereof, from the assessments required to be paid under section 3405 of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder; and

(e) Miscellaneous terms and conditions

terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 95-113, title XVII, § 1705, Sept. 29, 1977, 91 Stat. 1033.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3405. Wheat Industry Council

Any order issued pursuant to this chapter shall contain such terms and conditions as to provide—

(a) Establishment; powers

for the establishment and appointment by the Secretary of a Wheat Industry Council which shall consist of not more than twenty members and alternates therefor, and for the definition of its powers and duties which shall include only the powers enumerated in this section, and shall specifically include the powers to (1) administer such order in accordance with its terms and provisions, (2) make rules and regulations to effectuate the terms and provisions of such order, (3) receive, investigate, and report to the Secretary complaints of violations of such order, and (4) recommend to the Secretary amendments to such order. The term of an appointment to the Council shall be for two years with no member serving more than three consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms;

(b) Membership

that the Council and alternates therefor shall be composed of wheat producers or representatives of wheat producers, processors or representatives of processors, end product manufacturers or representatives of end product manufacturers, and consumers or representatives of consumers appointed by the Secretary from nominations submitted by eligible organizations or associations certified pursuant to section 3413 of this title, or, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers, or consumers are not members of, or their interests are not represented by any such eligible organizations or associations then from nominations made by such wheat producers, processors, end product manufacturers, and consumers in the manner authorized by the Secretary, so that the representation of wheat producers, processors, end product manufacturers, and consumers on the Council shall be equal: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of wheat producers, processors, end product manufacturers, and consumers throughout the United States;

(c) Research and nutrition education plans

that the Council shall, subject to the provisions of clause (g) of this section, develop and submit to the Secretary for approval any research plans or projects and nutrition education plans or projects resulting from research, and that any such plan or project must be approved by the Secretary before becoming effective;

(d) Budgets

that the Council shall, subject to the provisions of clause (g) of this section, submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of research and nutrition education projects;

(e) Processed wheat assessment; payment by end product manufacturers

that, except as provided in sections 3404(d) and 3406 of this title, each end product manufacturer shall pay to the Council, pursuant to regulations issued under the order, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat, for use in the manufacture of end products, from processors, distributors, or (in the case of intra-company transfers) related companies or divisions of the same company. Such assessment shall be used for such expenses and expenditures defined above, including provisions for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary and the Council under this chapter, as the Secretary finds are reasonable and likely to be incurred under the order during any period specified by the Secretary. The circumstances under which such a purchase or intra-company transfer will be deemed to have occurred will be prescribed by the Secretary in the order. Such assessment shall be calculated and set aside on the books and records of the end product manufacturer at the time of each purchase or intra-company transfer of processed wheat, and shall be remitted to the Council in the manner prescribed by the order. In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products, shall disclose to such end product manufacturers, as prescribed by the Secretary in the order, the amount or proportion of processed wheat contained in such products. The rate of assessment shall not exceed five cents per hundredweight of processed wheat purchased or transferred. The Secretary may

maintain a suit against any person subject to such assessment for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy;

(f) Maintenance of records

that the Council shall maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Council, with respect to the receipt and disbursement of all funds entrusted to it;

(g) Contracts

that the Council, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order pursuant to terms and conditions specified in clauses (a) and (b) of section of this title and for the payment of the cost thereof with funds collected through the assessments pursuant to the order. Any such contract or agreement shall provide that the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) Investment of assessment funds

that the Council, with the approval of the Secretary, may invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under this title in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) Lobbying restriction

that no funds collected by the Council under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by clause (a)(4) of this section; and

(j) Reimbursement of expenses

that the Council members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Council.

(Pub. L. 95-113, title XVII, § 1706, Sept. 29, 1977, 91 Stat. 1034.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3402, 3404, 3413 of this title.

§ 3406. Exemption for retail bakers

Any end product manufacturer who is a retail baker shall be exempt from the provisions of this chapter. For the purposes of this section, the term "retail baker" shall be deemed to include all end product manufacturers who sell end products directly to the ultimate consumer: *Provided*, That such term shall not include any end product manufacturer who derives less than 10 per centum of gross end product sales revenues from sales to ultimate consumers or who derives 10 per centum or more of gross food or food products sales revenues from the sale of such products manufactured or produced by others.

(Pub. L. 95-113, title XVII, § 1707, Sept. 29, 1977, 91 Stat. 1036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3407. Referendum

The Secretary shall conduct a referendum as soon as practicable among end product manufacturers not exempt hereunder who, during a representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the manufacture of end products, for the purpose of ascertaining whether the issuance of an order is approved or favored by such manufacturers. Qualified end product manufacturers may register with the Secretary by mail to vote in such referendum during a period ending not less than thirty days prior to the date of the referendum. Within ten days thereafter, the Secretary shall determine which end product manufacturers are eligible to vote in such referendum and cause to be published the list of such eligible voters. The Secretary shall issue ballots to all such persons who have so registered and been declared eligible to vote. No order issued pursuant to this chapter shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of such registered end product manufacturers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the end product manufacturers voting in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured by those voting in the referendum, during the representative period defined by the Secretary: *Provided*, That at the time of the registration provided under this section each end product manufacturer so registering shall certify to the Secretary the amount of processed wheat contained in the end products manufactured by such end product manufacturer during such representative period. The Secretary shall be reimbursed from assessments collected by the Council for any expenses in-

curred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the courts determine a recount and retabulation of results is appropriate.

(Pub. L. 95-113, title XVII, § 1708, Sept. 29, 1977, 91 Stat. 1036.)

§ 3408. Refund of processed wheat assessment

(a) Election of end product manufacturers to seek refunds

Subsequent to the approval by the Secretary of the annual budget of the Council or amendments thereto, a summary of such budget or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, shall be published in the Federal Register. All end product manufacturers not exempt hereunder shall have sixty days from the date of such publication within which to elect, under such conditions as the Secretary may prescribe, by so indicating to the Council in writing, by registered or certified mail, to reserve the right to seek refunds under subsection (b) of this section. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such sixty-day period.

(b) Refund demand; rules and regulations

Notwithstanding any other provision of this chapter, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under subsection (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided,* That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

(Pub. L. 95-113, title XVII, § 1709, Sept. 29, 1977, 91 Stat. 1037.)

§ 3409. Petition and review

(a) Petition; hearing; ruling

Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) Judicial review; jurisdiction; process; remand

The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

(Pub. L. 95-113, title XVII, § 1710, Sept. 29, 1977, 91 Stat. 1037.)

§ 3410. Enforcement of orders and regulations

(a) Jurisdiction; reference of civil actions to Attorney General

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this chapter shall be referred to the Attorney General for appropriate action: *Provided,* That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this chapter whenever the Secretary believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Penalties

Any end product manufacturer or other person who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) Other remedies

The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

(Pub. L. 95-113, title XVII, § 1711, Sept. 29, 1977, 91 Stat. 1038.)

§ 3411. Suspension and termination of orders

(a) Authority and responsibility of Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any pro-

vision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(b) Referendum

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of end product manufacturers subject to the order, to determine whether such manufacturers favor the termination or suspension of the order, and the Secretary shall suspend or terminate such order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

(c) Suspension or termination of order not to be considered an order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 95-113, title XVII, § 1712, Sept. 29, 1977, 91 Stat. 1038.)

§ 3412. Investigations; power to subpena and take oaths and affirmations; aid of courts

The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this chapter or to determine whether any person subject to the provisions of this chapter has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

(Pub. L. 95-113, title XVII, § 1713, Sept. 29, 1977, 91 Stat. 1039.)

§ 3413. Certification of organizations

The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 3403(a) of this title and to participate in the making of nominations under section 3405(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,

(c) evidence of stability and permanency of the organization,

(d) sources from which the organization's operating funds are derived,

(e) functions of the organization, and

(f) the organization's ability and willingness to further the aims and objectives of this title: *Provided,* That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: *Provided further,* That the primary consideration in determining the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this chapter.

(Pub. L. 95-113, title XVII, § 1714, Sept. 29, 1977, 91 Stat. 1039.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3403, 3405 of this title.

§ 3414. Other programs relating to wheat or wheat food research or nutrition education

Nothing in this chapter shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

(Pub. L. 95-113, title XVII, § 1715, Sept. 29, 1977, 91 Stat. 1040.)

§ 3415. Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 95-113, title XVII, § 1716, Sept. 29, 1977, 91 Stat. 1040.)

§ 3416. Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 95-113, title XVII, § 1717, Sept. 29, 1977, 91 Stat. 1040.)

§ 3417. Authorization of appropriations

There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 95-113, title XVII, § 1719, Sept. 29, 1977, 91 Stat. 1040.)

TITLE 8—ALIENS AND NATIONALITY

CHAPTER 12—IMMIGRATION AND NATIONALITY

Chapter Referred to in Other Sections

This chapter is referred to in title 10 sections 510, 591, 3253, 8253; title 22 section 2454; title 42 section 6705; title 50 sections 47c, 47f.

§ 1101. Definitions

(a) As used in this chapter—

(1) The term "administrator" means the Assistant Secretary of State for Consular Affairs.

[*See main edition for text of (2) to (40)*]

(41) The term "graduates of a medical school" means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine.

[*See main edition for text of (b) to (g)*]

(As amended Oct. 12, 1976, Pub. L. 94-484, title VI, § 602(c), as added Aug. 1, 1977, Pub. L. 95-83, title III, § 307(q)(3), 91 Stat. 395; Aug. 17, 1977, Pub. L. 95-105, title I, § 109(b)(3), 91 Stat. 847.)

References in Text

This chapter, referred to in subsec. (a), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Amendments

1977—Subsec. (a)(1). Pub. L. 95-105 substituted "Assistant Secretary of State for Consular Affairs" for "administrator of the Bureau of Security and Consular Affairs of the Department of State".

Subsec. (a)(41). Pub. L. 95-83 inserted "a" after "graduates of" and ", other than such aliens who are of national or international renown in the field of medicine" after "in a foreign state".

Effective Date of 1977 Amendment

Section 602(d) of Pub. L. 94-484, as added Pub. L. 95-83, title III, § 307(q)(3), Aug. 1, 1977, 91 Stat. 395, provided that: "This section [amending this section and enacting provisions set out as a note under section 1182 of this title] and the amendment made by subsection (c) [amending this section] are effective January 10, 1977, and the amendments made by subsections (b)(4) and (d) of section 601 [amending subsec. (a)(15)(J) of this section and section 1182 of this title] shall apply only on and after January 10, 1978, notwithstanding subsection (f) of such section [set out as an Effective Date of 1976 Amendments note under section 1182 of this title]."

Effective Date of 1976 Amendments

Amendment of subsec. (a)(15)(J) of this section by section 601(b)(4) of Pub. L. 94-484 to be applicable only on and after Jan. 10, 1978, notwithstanding section 601(f) of Pub. L. 94-484, see section 602(d) of Pub. L. 94-484, as added by section 307(q)(3) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note above.

Short Title

Section 1 of act June 27, 1952 provided that such act, which enacted this chapter, section 1429 of Title 18, Crimes and Criminal Procedure, amended sections 1353a, 1353d, 1552 of this title, sections 342b, 342c, 342e of former Title 5, Executive Departments and Government Officers and Employees, sections 1114, 1546 of Title 18, sections 618, 1446 of Title 22, Foreign Relations and Intercourse, sections 1, 177 of Title 49, Transportation, sections 1952 to 1955 and 1961 of Title 50 App., War and National Defense, repealed section 530 of Title 31, Money and Finance, enacted provisions set out as notes under section 1101 of this title, and amended provisions set out as notes under sections 1435 and 1440 of this title, may be cited as the "Immigration and Nationality Act".

Transfer of Functions

All functions vested in the Secretary of State under subsec. (a)(15)(J) of this section were transferred to the Director of the Agency for International Communication by Reorg. Plan No. 2 of 1977, § 7(a)(8), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

Section Referred to in Other Sections

This section is referred to in sections 1102, 1151, 1151a, 1152, 1153, 1154, 1181, 1182, 1184, 1184a, 1201, 1251, 1254, 1255b, 1257, 1258, 1282, 1303, 1481 of this title; title 2 section 441e; title 7 section 2015; title 18 section 613; title 22 sections 1474, 2395, 2508; title 26 sections 871, 872, 1441, 3121, 3231, 3306; title 42 section 410; title 45 sections 231, 351; title 50 App. Sections 453, 456.

§ 1104. Secretary of State

(a) Powers and duties

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties, and functions of the Bureau of Consular Af-

fairs; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) Creation of Bureau of Consular Affairs; duties of Assistant Secretary of State for Consular Affairs

There is established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

[*See main edition for text of* (c)]

(d) Transfer of duties

The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of Consular Affairs.

[*See main edition for text of* (e)]

(f) Repealed. Pub. L. 95-105, title I, § 109(b)(1)(D), Aug. 17, 1977, 91 Stat. 847

(As amended Aug. 17, 1977, Pub. L. 95-105, title I, § 109(b)(1), 91 Stat. 847.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-105, § 109(b)(1)(A), struck out "Security and" following "Bureau of".

Subsec. (b). Pub. L. 95-105, § 109(b)(1)(B), substituted "Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs" for "Security and Consular Affairs, to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank equal to that of an Assistant Secretary of State" and "Assistant Secretary of State for Consular Affairs" for "administrator" and struck out provision that the administrator shall be appointed by the President by and with the advice and consent of the Senate.

Subsec. (d). Pub. L. 95-105, § 109(b)(1)(C), struck out "Security and" following "Bureau of".

Subsec. (f). Pub. L. 95-105, § 109(b)(1)(D), struck out subsec. (f), which placed the Bureau of Security and Consular Affairs under the immediate jurisdiction of the Deputy Under Secretary of State for Administration.

ASSUMPTION OF DUTIES BY ADMINISTRATOR OF BUREAU OF SECURITY AND CONSULAR AFFAIRS

Section 109(b)(4) of Pub. L. 95-105 provided that: "The individual holding the position of administrator of the Bureau of Security and Consular Affairs on the date of enactment of this section [Aug. 17, 1977] shall assume the duties of the Assistant Secretary of State for Consular Affairs and shall not be required to be reappointed by reason of the enactment of this section."

REFERENCES TO BUREAU OF SECURITY AND CONSULAR AFFAIRS OR ADMINISTRATOR

Section 109(b)(5) of Pub. L. 95-105 provided that: "Any reference in any law to the Bureau of Security and Consular Affairs or to the administrator of such Bureau shall be deemed to be a reference to the Bureau of Consular Affairs or to the Assistant Secretary of State for Consular Affairs, respectively."

§ 1105. Liaison with internal security officers

The Commissioner and the Assistant Secretary of State for Consular Affairs shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this chapter in the interest of the internal security of the United States. The Commissioner and the Assistant Secretary of State for Consular Affairs shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this chapter, and all other immigration and nationality laws.

(As amended Aug. 17, 1977, Pub. L. 95-105, title I, § 109(b)(2), 91 Stat. 847.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-105 substituted "Assistant Secretary of State for Consular Affairs" for "administrator" in two places.

§ 1153. Allocation of immigrant visas

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1152, 1154, 1182, 1254, 1255 of this title; title 7 section 2015; title 26 section 1153; title 42 section 1382c.

§ 1182. Excludable aliens

(a) General classes

Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

[*See main edition for text of (1) to (31)*]

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States[1] and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 1153(a)(3) and (6) of this title and to nonpreference immigrant aliens described in section 1153(a)(8) of this title.

[*See main edition for text of (b) to (i)*]

(j) Limitation on immigration of foreign medical graduates

(1) The additional requirements referred to in section 1101(a)(15)(J) of this title for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

[*See main edition for text of (A)*]

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States); or (ii) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that there is a need in that country for persons with the skills the alien will acquire in such education or training; and

(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the written request of the government of his nationality or last residence, if (i) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (ii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) and (B) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirements, to enter the United States to participate in such program.

[*See main edition for text of (B)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(q)(1), (2), 91 Stat. 394.)

[1] So in original. A closing parenthesis probably should follow "States."

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1977—Subsec. (a)(32). Pub. L. 95-83, § 307(q)(1), inserted in first sentence after "graduates of a medical school" text reading "not accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States" and struck out second sentence exclusion of aliens provision with respect to application to special immigrants defined in section 1101(a)(27)(A) of this title (other than the parents, spouses, or children of the United States citizens or of aliens lawfully admitted for permanent residence).

Subsec. (j)(1)(B). Pub. L. 95-83, § 307(q)(2)(A), inserted cl. (i) and designated existing provisions as cl. (ii).

Subsec. (j)(1)(C). Pub. L. 95-83, § 307(q)(2)(B), substituted "that there is a need in that country for persons with the skills the alien will acquire in such education or training" for "that upon such completion and return, he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country".

Subsec. (j)(1)(D). Pub. L. 95-83, § 307(q)(2)(C), substituted "at the written request" for "at the request", struck out cl. "(i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which

he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country,", and redesignated as cls. (i) and (ii) former cls. (ii) and (iii).

Subsec. (j)(2)(A). Pub. L. 95-83, § 307(q)(2)(D), substituted "(A) and (B)" for "(A) through (D)".

EFFECTIVE DATE OF 1976 AMENDMENTS

Enactment of subsec. (j) of this section by section 601(d) of Pub. L. 94-484 to be applicable only on and after Jan. 10, 1978, notwithstanding section 601(f) of Pub. L. 94-484, see section 602(d) of Pub. L. 94-484, as added by section 307(q)(3) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note under section 1101 of this title.

TRANSFER OF FUNCTIONS

All functions vested in the Secretary of State under subsec. (e) of this section were transferred to the Director of the Agency for International Communication by Reorg. Plan No. 2 of 1977, § 7(a)(8), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

NATIONAL BOARD OF MEDICAL EXAMINERS EXAMINATION

Section 602(a), (b) of Pub. L. 94-484, as added Pub. L. 95-83, title III, § 307(q)(3), Aug. 1, 1977, 91 Stat. 395, eff. Jan. 10, 1977, provided:

"(a) For purposes of section 212(a)(32) and section 212(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1182) [subsecs. (a)(32) and (j)(1) of this section], an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners Examination if the alien—

"(1) was on January 9, 1977, a doctor of medicine fully and permanently licensed to practice medicine in a State,

"(2) held on that date a valid specialty certificate issued by a constituent board of the American Board of Medical Specialties, and

"(3) was on that date practicing medicine in a State.

"(b) For purposes of this section, the term 'State' means a State as defined in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1102, 1153, 1181, 1183, 1201, 1222, 1223, 1224, 1225, 1226, 1251, 1255, 1259, 1282, 1284, 1322, 1327 of this title; title 7 section 2015; title 26 section 3304; title 42 section 1382c.

§ 1226. Exclusion of aliens

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1153, 1155, 1323 of this title; title 18 section 4113.

§ 1252. Apprehension and deportation of aliens

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1182, 1184, 1282 of this title; title 18 section 4113; title 22 sections 618, 2508; title 40 section 613.

§ 1253. Countries to which aliens shall be deported

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1184, 1330 of this title; title 7 section 2015; title 22 sections 618, 2508.

§ 1254. Suspension of deportation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1256 of this title; title 18 section 4113.

§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence; record; alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa

INDOCHINA REFUGEES; ADJUSTMENT OF STATUS

Pub. L. 95-145, title I, §§ 101 to 107, Oct. 28, 1977, 91 Stat. 1223, provided:

"Sec. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

"(1) the alien makes an application for such adjustment within six years after the date of enactment of this title [Oct. 28, 1977];

"(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act [section 1182(a)(14), (15), (20), (21), (25), and (32) of this title]; and

"(3) the alien has been physically present in the United States for at least two years.

"(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

"(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act [section 1182(d)(5) of this title] subsequent to March 31, 1975, but prior to January 1, 1979; or

"(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

"Sec. 102. Upon approval of an application for adjustment of status under section 101 of this title [this note], the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

"Sec. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act [this chapter] prior to the date of enactment of this title [Oct. 28, 1977] may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

"Sec. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title [this note], his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

"Sec. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title [this note].

"Sec. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title [this note] the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act [this chapter], and the Attorney General shall not be required to charge the alien any fee.

"Sec. 107. Except as otherwise specifically provided in this title [this note], the definitions contained in the Immigration and Nationality Act [this chapter] shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible."

§ 1259. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to June 30, 1948

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1444 of this title; title 7 section 2015.

§ 1353c. Immigration officials; service in foreign contiguous territory

Nothing in section 209 of title 18, relative to augmenting salaries of Government officials from outside sources shall prevent receiving reimbursements for services of immigration officials incident to the inspection of aliens in foreign contiguous territory and such reimbursement shall be credited to the appropriation, "Immigration and Naturalization Service—Salaries and Expenses."

(Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1424; Sept. 3, 1954, ch. 1263, § 6, 68 Stat. 1227.)

CODIFICATION

"Section 209 of title 18" was substituted for "section 1914 of title 18" on authority of section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1914 of title 18" for reference to the proviso in the Act of March 3, 1917 (5 U.S.C. 66), and substituted "Immigration and Naturalization Service—Salaries and Expenses" for "Expenses of regulating immigration".

§ 1425. Ineligibility to naturalization of deserters from the armed forces

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1434 of this title.

TITLE 10—ARMED FORCES

This title was enacted by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1

Subtitle A—General Military Law

PART III—TRAINING

Chap. Sec.

106. Educational Assistance for Enlisted Members of the Selected Reserve of the Ready Reserve 2131

AMENDMENTS

1977—Pub. L. 95-79, title IV, § 402(b), July 30, 1977, 91 Stat. 330, added item 106.

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 1—DEFINITIONS

§ 101. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 438; title 18 section 232; title 33 section 857-1; title 39 section 3401; title 42 section 7235.

CHAPTER 4—DEPARTMENT OF DEFENSE

Sec.

134. Deputy Secretary of Defense: appointment; powers and duties; precedence.

135. Under Secretaries of Defense: appointment; powers and duties; precedence.

AMENDMENTS

1977—Pub. L. 95-140, §§ 1(b), 2(b), Oct. 21, 1977, 91 Stat. 1172, 1173, substituted "Deputy Secretary" for "Deputy Secretaries" in item 134 and "Under Secretaries of Defense" for "Director of Defense Research and Engineering" in item 135.

§ 131. Executive department

CEILINGS ON COMMISSIONED OFFICERS ON ACTIVE DUTY AND CIVILIANS EMPLOYED BY DEPARTMENT OF DEFENSE

Pub. L. 95-79, title VIII, § 811(a), July 30, 1977, 91 Stat. 335, provided that:

"(1) The total number of commissioned officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel, and on active duty in the Navy above the grade of captain, may not exceed 1,073 after October 1, 1980, and the total number of civilian employees of the Department of Defense in grades GS-13 through GS-18, including positions authorized under section 1581 of title 10, shall be reduced during the fiscal year beginning October 1, 1977, by the same percentage as the number of officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel and on active duty in the Navy above the grade of captain is reduced below 1,141 during such fiscal year, and during the fiscal years beginning October 1, 1978, and October 1, 1979, by a percentage equal to the percentage by which the number of commissioned officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel and on active duty in the Navy above the grade of captain is reduced during such fiscal year below the total number of such officers on active duty on October 1, 1978, and October 1, 1979, respectively.

"(2) On and after October 1, 1980, the total number of civilian employees of the Department of Defense in the grades and positions described in paragraph (1) may not exceed the number employed in such grades and positions on the date of enactment of this subsection [July 30, 1977] reduced as provided in paragraph (1).

"(3) In time of war, or of national emergency declared by Congress, the President may suspend the operation of paragraphs (1) and (2)."

§ 133. Secretary of Defense: appointment; powers and duties; delegation by

REPORT TO CONGRESS ON SALE OR TRANSFER OF DEFENSE ARTICLES

Pub. L. 94-106, title VIII, § 813, Oct. 7, 1975, 89 Stat. 540, as amended by Pub. L. 95-79, title VIII, § 814, July 30, 1977, 91 Stat. 337, provided that:

"In the case of any letter of offer to sell or any proposal to transfer defense articles which are valued at $25,000,000 or more from the United States active forces' inventories or from current production, the Secretary of Defense shall submit a report to the Congress setting forth—

"(1) the impact of such sales or transfers on the current readiness of United States forces;

"(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the full replacement costs of those items sold or transferred; and

"(3) for each article to be sold (A) the initial issue quantity requirement for United States forces for that article, (B) the percentage of such requirement already delivered to such forces or contracted for at the time of the report, (C) the timetable for meeting such requirement absent the proposed sale, and (D) the timetable for meeting such requirement if the sale is approved."

§ 134. Deputy Secretary of Defense: appointment; powers and duties; precedence

(a) There is a Deputy Secretary of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

(c) The Deputy Secretary takes precedence in the Department of Defense immediately after the Secretary.

(As amended Pub. L. 95-140, § 1(a), Oct. 21, 1977, 91 Stat. 1172.)

AMENDMENTS

1977—Pub. L. 95-140, § 1(a)(4), substituted in section catchline "Deputy Secretary" for "Deputy Secretaries".

Subsec. (a). Pub. L. 95-140, § 1(a)(1), substituted "There is a Deputy Secretary" for "There are two Deputy Secretaries" and struck out "a" before "Deputy Secretary".

Subsec. (b). Pub. L. 95-140, § 1(a)(2), substituted "Deputy Secretary" for "Deputy Secretaries" and "Deputy Secretary" for "Deputy Secretaries, in the order of precedence, designated by the President".

Subsec. (c). Pub. L. 95-140, § 1(a)(3), substituted "The Deputy Secretary takes" for "The Deputy Secretaries take".

§ 135. Under Secretaries of Defense: appointment; powers and duties; precedence

(a) There are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering. The Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Under Secretary of Defense for Research and Engineering shall perform such duties relating to research and engineering as the Secretary of Defense may prescribe, including—

[*See main edition for text of (1) to (3)*]

(c) The Under Secretary of Defense for Policy takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments. The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.

(As amended Pub. L. 95-140, § 2(a), Oct. 21, 1977, 91 Stat. 1172.)

AMENDMENTS

1977—Pub. L. 95-140, § 2(a)(4), substituted in section catchline "Under Secretaries of Defense" for "Director of Defense Research and Engineering".

Subsec. (a). Pub. L. 95-140, § 2(a)(1), substituted provisions relating to the appointment of the Under Secretary of Defense for Policy and the Under Secretary of Defense for Research and Engineering for provisions relating to the appointment of the Director of Defense Research and Engineering and added provisions relating to the prohibition of the appointment of a person as Under Secretary of Defense for policy within ten years after relief from active duty as a commissioned officer of an armed force.

Subsec. (b). Pub. L. 95-140, § 2(a)(2), substituted "The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Under Secretary of Defense for Research and Engineering shall perform" for "The Director performs".

Subsec. (c). Pub. L. 95-140, § 2(a)(3), substituted "Under Secretary of Defense for Policy" for "Director" and "Deputy Secretary" for "Deputy Secretaries" and added provision that the Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.

§ 136. Assistant Secretaries of Defense: appointment; powers and duties; precedence

[*See main edition for text of (a) to (d)*]

(e) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.

[*See main edition for text of (f)*]

(As amended Pub. L. 95-140, § 3(a), Oct. 21, 1977, 91 Stat. 1173.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-140 inserted "of Defense" following "Secretary" and substituted "Secretary of Defense" for "Secretaries of Defense" and ", and the Under Secretaries of Defense" for ", and the Director of Defense Research and Engineering".

CHAPTER 5—JOINT CHIEFS OF STAFF

§ 142. Chairman

(a) The Chairman of the Joint Chiefs of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. He serves at the pleasure of the President for a term of two years, and may be reappointed in the same manner for one additional term. However, in time of war declared by Congress there is no limit on the number of reappointments.

[*See main edition for text of (b) and (c)*]

CODIFICATION

Subsec. (a) of this section is set out in this supplement to correct a typographical error appearing in the main edition.

CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

§ 171. Armed Forces Policy Council

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

[*See main edition for text of (1)*]

(2) the Deputy Secretary of Defense;

[*See main edition for text of (3) to (5)*]

(6) the Under Secretaries of Defense;

[*See main edition for text of* (7) *to* (10); (b)]

(As amended Oct. 21, 1977, Pub. L. 95-140, § 3(b), 91 Stat. 1173.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-140, § 3(b)(1), substituted "the Deputy" for "a Deputy".

Subsec. (a)(6). Pub. L. 95-140, § 3(b)(2), substituted "the Under Secretaries of Defense;" for "the Director of Defense Research and Engineering;".

CHAPTER 11—RESERVE COMPONENTS

§ 280. Regulations

Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as he considers necessary to carry out chapters 11, 35, 39, and 59, and sections 715, 1003, 1004, 1376, 2001, 2511, 3077, 3079, 3221, 3224, 3259, 3260, 3261, 3351, 3352, 3354, 3495, 3498, 3685, 3686, 5251, 5252, 5456, 5597, 6327, 6483, 7225, 7226, 7854, 8077, 8079, 8221, 8224, 8259, 8260, 8261, 8351, 8352, 8354, 8495, 8498, 8685, and 8686 of this title. The Secretary of the Treasury, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as he considers necessary to carry out chapters 11, 35, 39, and 59, and sections 715, 1003, 1004, 1376, 2001, and 2511 of this title, so far as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy. So far as practicable, regulations for all reserve components shall be uniform.

(As amended Aug. 17, 1977, Pub. L. 95-105, title V, § 50^{a}(d)(3), 91 Stat. 860.)

AMENDMENTS

1977—Pub. L. 95-105 eliminated references to section 1032 of this title.

PART II—PERSONNEL

CHAPTER 31—ENLISTMENTS

§ 511. Reserve components: terms

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 2108; title 14 section 765; title 38 sections 1602, 1652, 1701; title 50 App. section 456.

CHAPTER 33—APPOINTMENTS IN REGULAR COMPONENTS

§ 555. Warrant officers: grades

(a) The regular warrant officer grades in each armed force corresponding to the pay grades prescribed for warrant officers by section 201(c) of title 37 are as follows:

Warrant officer grade:
Chief warrant officer, W-4
Chief warrant officer, W-3
Chief warrant officer, W-2
Warrant officer, W-1

[*See main edition for text of* (b)]

(As amended July 30, 1977, Pub. L. 95-79, title III, § 302(a)(4), 91 Stat. 326.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-79 substituted "201(c)" for "201(d)".

CHAPTER 37—GENERAL SERVICE REQUIREMENTS

§ 651. Members: required service

(a) Each person who becomes a member of an armed force before his twenty-sixth birthday, other than a person deferred under the next to the last sentence of section 456(d)(1) of title 50, appendix, shall serve in the armed forces for a total of six years, unless he is sooner discharged because of personal hardship under regulations prescribed by the Secretary of Defense or, if he is a member of the Coast Guard while it is not operating as a service in the Navy, by the Secretary of the Treasury. Any part of such service that is not active duty or is active duty for training shall be performed in a reserve component.

[*See main edition for text of* (b)]

(As amended July 30, 1977, Pub. L. 95-79, title VIII, § 803(a), 91 Stat. 333.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-79 struck out "male" following "Each" and "after August 9, 1955," following "who".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 803(b) of Pub. L. 95-79 provided that: "The amendments made by subsection (a) [amending subsec. (a) of this section] shall take effect on the first day of the seventh calendar month beginning after the month in which this Act is enacted [July 1977] and shall apply to any female person who becomes a member of an Armed Force on or after such day."

CHAPTER 47—UNIFORM CODE OF MILITARY JUSTICE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 951, 955, 1037, 5148 of this title; title 5 sections 8312, 8313, 8331; title 28 section 535; title 42 section 217; title 49 sections 1471, 1655; title 50 App. section 473.

§ 802. Art. 2. Persons subject to this chapter

EX. ORD. NO. 10631. CODE OF CONDUCT FOR MEMBERS OF THE ARMED FORCES

Ex. Ord. No. 10631, Aug. 17, 1955, 20 F.R. 6057, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12017, Nov. 3, 1977, 42 F.R. 57941, provided:

* * * * *

CODE OF CONDUCT FOR MEMBERS OF THE UNITED STATES ARMED FORCES

* * * * *

V

When questioned, should I become a prisoner of war, I am required to give name, rank, service number and

date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

* * * * *

§ 807. Art. 7. Apprehension

REWARD FOR APPREHENSION OF DESERTERS, PRISONERS, AND MEMBERS ABSENT WITHOUT LEAVE

Pub. L. 95-111, title VIII, § 808, Sept. 21, 1977, 91 Stat. 900, provided in part that a reward of not to exceed $25 in any one case shall be paid for the apprehension and delivery of deserters, prisoners, and members of the Army, Navy, Marine Corps, and Air Force absent without leave.

Similar provisions were contained in the following prior act:

Sept. 22, 1976, Pub. L. 94-419, title VII, § 708, 90 Stat. 1292.

§ 858. Art. 58. Execution of confinement

DONATION UPON RELEASE FROM CONFINEMENT OR DISCHARGE FOR FRAUDULENT ENLISTMENT

Pub. L. 95-111, title VIII, § 808, Sept. 21, 1977, 91 Stat. 900, provided in part that donations of not to exceed $25 shall be paid to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment.

Similar provisions were contained in the following prior act:

Sept. 22, 1976, Pub. L. 94-419, title VII, § 708, 90 Stat. 1292.

§ 923a. Art. 123a. Making, drawing, or uttering check, draft, or order without sufficient funds

Any person subject to this chapter who—

(1) for the procurement of any article or thing of value, with intent to defraud; or

(2) for the payment of any past due obligation, or for any other purpose, with intent to deceive;

makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be punished as a court-martial may direct. The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment. In this section, the word "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft, or order.

(Added Pub. L. 87-385, § 1(1), Oct. 4, 1961, 75 Stat. 814.)

CODIFICATION

Section is set out in this supplement to correct typographical error appearing in the main edition.

CHAPTER 48—MILITARY CORRECTIONAL FACILITIES

Sec.
955. Prisoners transferred to or from foreign countries.[1]

§ 955. Prisoners transferred to or from foreign countries

(a) When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders, the Secretary concerned may, with the concurrence of the Attorney General, transfer to said foreign country any offender against chapter 47 of this title. Said transfer shall be effected subject to the terms of said treaty and chapter 306 of title 18, United States Code.

(b) Whenever the United States is party to an agreement on the status of forces under which the United States may request that it take custody of a prisoner belonging to its armed forces who is confined by order of a foreign court, the Secretary concerned may provide for the carrying out of the terms of such confinement in a military correctional facility of his department or in any penal or correctional institution under the control of the United States or which the United States may be allowed to use. Except as otherwise specified in such agreement, such person shall be treated as if he were an offender against chapter 47 of this title.

(Added Pub. L. 95-144, § 4, Oct. 28, 1977, 91 Stat. 1221.)

CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
[1032. Repealed.]

AMENDMENTS

1977—Pub. L. 95-105, title V, § 509(d)(2), Aug. 17, 1977, 91 Stat. 860, struck out item 1032 "Dual capacity: Reserve accepting employment with foreign government or concern".

[§ 1032. Repealed. Pub. L. 95-105, title V, § 509(d)(1), Aug. 17, 1977, 91 Stat. 860]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 80, provided that a Reserve may accept civil employment with a foreign government or concern.

CHAPTER 57—DECORATIONS AND AWARDS

EX. ORD. NO. 12019. DEFENSE MERITORIOUS SERVICE MEDAL

Ex. Ord. No. 12019, Nov. 3, 1977, 42 F.R. 57945, provided:

By virtue of the authority vested in me as President of the United States of America, and as Commander in Chief of the Armed Forces, it is hereby ordered as follows:

SECTION 1. There is hereby established a Defense Meritorious Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Defense to any member of the Armed Forces of the United States who has rendered outstanding non-

[1] Item 955 was inserted editorially as section was added without adding section heading to analysis.

combat meritorious achievement or service while assigned to the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, a specified or unified command, a Defense agency, or other such joint activity as may be designated by the Secretary of Defense.

SEC. 2. The Defense Meritorious Service Medal, with accompanying ribbons and appurtenances, shall be of appropriate design approved by the Secretary of Defense and shall be awarded under such regulations as the Secretary of Defense may prescribe. These regulations shall place the Defense Meritorious Service Medal in an order of precedence after the Medal of Honor, the Distinguished Service Cross, the Defense Distinguished Service Medal, the Distinguished Service Medal, the Silver Star Medal, the Defense Superior Service Medal, the Legion of Merit Medal, and the Bronze Star Medal, but before the Meritorious Service Medal.

SEC. 3. No more than one Defense Meritorious Service Medal shall be awarded to any one person, but for each succeeding outstanding meritorious achievement or service justifying such an award a suitable device to be worn with that medal may be awarded under such regulations as the Secretary of Defense may prescribe.

SEC. 4. The Defense Meritorious Service Medal or device may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Defense.

JIMMY CARTER.

CHAPTER 79—CORRECTION OF MILITARY RECORDS

§ 1553. Review of discharge or dismissal

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 sections 1662, 3010, 3103.

PART III—TRAINING

Chap. Sec.
106. Educational Assistance for Enlisted Members of the Selected Reserve of the Ready Reserve 2131

AMENDMENTS

1977—Pub. L. 95-79, title IV, § 402(b), July 30, 1977, 91 Stat. 330, added chapter 106.

CHAPTER 103—SENIOR RESERVE OFFICERS' TRAINING CORPS

§ 2102. Establishment

[*See main edition for text of* (a) *to* (c)]

(d) The President shall cause to be established and maintained in each State at least one unit of the program if—

(1) a unit is requested by an educational institution in the State;

(2) such request is approved by the Governor of the State in which the institution requesting the unit is located; and

(3) the Secretary of the military department concerned determines that there will be not less than 40 students enrolled in such unit and that the provisions of this section are otherwise satisfied.

(As amended Pub. L. 95-79, title VI, § 602, July 30, 1977, 91 Stat. 332.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-79 added subsec. (d).

§ 2103. Eligibility for membership

LOYALTY OATH BY STUDENTS IN BASIC COURSES OF SENIOR DIVISION

Pub. L. 95-111, title VIII, § 822, Sept. 21, 1977, 91 Stat. 903, provided that: "No part of the funds appropriated herein [Department of Defense Appropriation Act, 1978] shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense."

Similar provisions were contained in the following prior act:

Sept. 22, 1976, Pub. L. 94-419, title VII, § 722, 90 Stat. 1295.

§ 2107. Financial assistance program for specially selected members

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2104, 2106, 2133, 5504, 5652b, 6387 of this title; title 37 sections 209, 415, 416, 422.

CHAPTER 106—EDUCATIONAL ASSISTANCE FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

Sec.
2131. Educational assistance program: establishment; amount.
2132. Eligibility for educational assistance.
2133. Termination of assistance; refund by member.
2134. Reports to Congress.
2135. Termination of program.

§ 2131. Educational assistance program: establishment; amount

(a) To encourage enlistments in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by him with respect to the Coast Guard when it is not operating as a service in the Navy, may establish and maintain a program to provide educational assistance to enlisted members of the Selected Reserve of the Ready Reserve of the armed force under his jurisdiction.

(b)(1) An educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned of 50 percent of the educational expenses incurred by a member for instruction at an accredited institution. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or shop instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

(2) To receive assistance under this section, a member must be eligible for such assistance under section 2132 and must submit an application for such assistance in such form and manner as the Secretary concerned shall pre-

scribe and be approved for such assistance by the Secretary concerned.

(c) Educational assistance may be provided to a member under this section until the member completes a course of instruction required for the award of a baccalaureate degree, or the equivalent evidence of completion of study, by an accredited institution, but the amount of educational assistance provided a member under this section may not exceed $500 in any twelve-month period, nor a total of $2,000.

(d) For purposes of this section, the term "accredited institution" means a civilian college, university, or trade, technical, or vocational school in the United States (including the District of Columbia, Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Commissioner of Education, Department of Health, Education, and Welfare.

(Added Pub. L. 95-79, title IV, § 402(a), July 30, 1977, 91 Stat. 328.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2132, 2133 of this title.

§ 2132. Eligibility for educational assistance

(a) To be eligible for educational assistance under section 2131, a member must not be serving on active duty for more than thirty days and must—

(1) be an enlisted member of the Selected Reserve of the Ready Reserve of an armed force;

(2) have initially enlisted as a Reserve for service in a unit of the Selected Reserve of a reserve component after September 30, 1977;

(3) never have served in an armed force before such enlistment;

(4) at the time of such enlistment have executed an agreement as prescribed by subsection (b);

(5) be a graduate from secondary school;

(6) have completed the initial period of active duty for training required of such member;

(7) if the member is assigned to a unit, be participating satisfactorily in training with such unit; and

(8) have served less than eight years as a Reserve.

(b)(1) An agreement referred to in subsection (a)(4) shall be in writing and shall provide that if the member accepts educational assistance under section 2131, the period of enlistment of such member shall be automatically extended by two years and if the member is discharged for the purpose of accepting an appointment as an officer, the member shall remain a member of the Ready Reserve until the eighth anniversary of such enlistment.

(2) A member who enlists after September 30, 1977, but before regulations to carry out this chapter are promulgated shall be eligible for educational assistance under section 2131 if he is otherwise eligible for such assistance under subsection (a) and if he executes an agreement as described in paragraph (1) not later than one year after the date on which regulations to carry out this chapter are first promulgated.

(c) Educational assistance being provided a member under section 2131 may be continued to a member who otherwise continues to qualify for such assistance if such member—

(1) is discharged in order to accept an immediate appointment as an officer in the Ready Reserve; or

(2) is no longer a member of the Selected Reserve, if such member is a member of the Ready Reserve and has served at least six years in the Selected Reserve of the Ready Reserve.

(Added Pub. L. 95-79, title IV, § 402(a), July 30, 1977, 91 Stat. 329.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2131 of this title.

§ 2133. Termination of assistance; refund by member

(a) Educational assistance being provided a member under section 2131 shall be terminated if—

(1) the member fails to participate satisfactorily in training with his unit, if he is a member of a unit;

(2) the member is separated from his armed force, unless he is separated in order to accept an immediate appointment as an officer in the Ready Reserve;

(3) the member completes eight years of service; or

(4) the member receives financial assistance under section 2107 as a member of the Senior Reserve Officers' Training Corps.

(b) A member who fails to participate satisfactorily in training with his unit, if he is a member of a unit, shall refund the amount of all educational assistance received by such member under section 2131 unless the failure to participate in training was due to reasons beyond the control of the member. Any refund made by a member under this subsection shall not affect the period of obligation of such member to serve as a Reserve.

(Added Pub. L. 95-79, title IV, § 402(a), July 30, 1977, 91 Stat. 329.)

§ 2134. Reports to Congress

The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve receiving educational assistance under this chapter at the time of such report and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be submitted not later than December 31, 1977.

(Added Pub. L. 95-79, title IV, § 402(a), July 30, 1977, 91 Stat. 330.)

§ 2135. Termination of program

No educational assistance may be provided under this chapter to any person enlisting as a Reserve after September 30, 1978.

(Added Pub. L. 95-79, title IV, § 402(a), July 30, 1977, 91 Stat. 330.)

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 131—PLANNING AND COORDINATION

§ 2203. Budget estimates

PRESIDENTIAL RECOMMENDATIONS RESPECTING MODIFICATIONS IN CRUISE MISSILE PROGRAM

Pub. L. 95-184, title II, § 203, Nov. 15, 1977, 91 Stat. 1382, provided that: "In authorizing funds under this Act [Pub. L. 95-184], Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget and Impoundment Control Act of 1974 [section 1301 et seq. of Title 31, Money and Finance] and the Budget and Accounting Act, 1921 [section 1 et seq. of Title 31], such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks."

REPORT TO CONGRESSIONAL COMMITTEES ON MATERIAL READINESS REQUIREMENTS FOR ARMED FORCES

Pub. L. 95-79, title VIII, § 812, July 30, 1977, 91 Stat. 336, provided that: "The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 15, 1978, a report setting forth quantifiable and measurable material readiness requirements for the Armed Forces, including the Reserve components thereof, the monthly readiness status of the Armed Forces, including the reserve components thereof, during fiscal year 1977, and any changes in such requirements and status projected for fiscal years 1978 and 1979 and in the five-year defense program. The Secretary of Defense shall also inform such committees of any subsequent changes in the aforementioned materiel readiness requirements and the reasons for such changes. The budget for the Department of Defense submitted to the Congress for fiscal year 1979 and subsequent fiscal years shall include data projecting the effect of the appropriations requested for materiel readiness requirements."

MODIFICATIONS IN UNITED STATES STRATEGIC ARMS PROGRAMS ON RECOMMENDATION OF PRESIDENT

Pub. L. 95-79, title VIII, § 813, July 30, 1977, 91 Stat. 337, provided that: "In authorizing procurement under section 101 of this Act and research and development under section 201 of this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget and Impoundment Control Act of 1974 [section 1301 et seq. of Title 31, Money and Finance] and the Budget and Accounting Act, 1921 [section 1 et seq. of Title 31], such modifications in United States strategic arms programs as the President may recommend to facilitate either negotiation or agreement in the Strategic Arms Limitation Talks."

CHAPTER 135—ENCOURAGEMENT OF AVIATION

§ 2276. Inspection and audit of plant and books of contractor; criminal provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 643.

CHAPTER 137—PROCUREMENT GENERALLY

§ 2304. Purchases and contracts: formal advertising; exceptions

REPORTING REQUIREMENTS FOR SECRETARY OF DEFENSE AND PRIME CONTRACTORS CONCERNING PAYMENTS BY PRIME CONTRACTORS FOR WORK PERFORMED BY SUBCONTRACTORS

Pub. L. 95-111, title VIII, § 836, Sept. 21, 1977, 91 Stat. 906, provided that:

"(a) The Secretary of Defense shall require all prime contractors receiving contract awards of $500,000 or more from the Department of Defense to file a report with the Secretary at the end of the year showing the amount of Department of Defense work (in terms of dollars) each such contractor had performed by subcontractors during such year and to identify the State or States in which each subcontractor performed the work subcontracted to it.

"(b) The Secretary of Defense shall submit a report annually to the Congress showing, on a State-by-State basis, the total amount of Department of Defense funds paid to subcontractors, during the year for which the report is submitted, by the prime contractors described in subsection (a)."

PERFORMANCE REVIEW OF DEPARTMENT OF DEFENSE COMMERCIAL OR INDUSTRIAL FUNCTIONS

Pub. L. 95-79, title VIII, § 809, July 30, 1977, 91 Stat. 334, provided that:

"(a) The Secretary of Defense and the Director of the Office of Management and Budget shall jointly conduct a complete and comprehensive review of the criteria used in determining whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors. The review shall include—

"(1) an evaluation of the basis for, and assumptions underlying, Department of Defense methods for conducting cost analyses with respect to decisions to contract for performance of commercial or industrial type functions;

"(2) an evaluation of the differences between private contractors and the Department of Defense in their procedures and policies relating to personnel compensation and other differences affecting their analysis of the cost of personnel;

"(3) identification of the defense mission essential functions identified by the Secretary of Defense as not suitable for performance by private contractors; and

"(4) an evaluation, to be made by the Director of the Office of Management and Budget, of all aspects of OMB Circular A-76 and of the implementation of such circular.

"(b) A detailed report describing the results of the review required by subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives before January 1, 1978. No commercial or industrial type function of the Department of Defense which on the date of enactment of this Act [July 30, 1977] is being performed by Department of Defense personnel shall be converted to performance by private contractors before the earlier of

March 15, 1978, or the end of the 90-day period beginning on the date the report required by this section is received by such committees. The prohibition in the preceding sentence shall not apply to the conversion to performance by private contractors of any commercial or industrial type function at any Department of Defense installation referred to in subsection (a) if such conversion would have been made under policies and regulations in effect before June 30, 1976.

"(c)(1) The Secretary of Defense shall, before January 1, 1978, submit a report to the Committees on Armed Services of the Senate and House of Representatives (A) detailing the rationale of the Department of Defense for the establishment of goals for the percentage of work at defense research installations to be performed by private contractors, and (B) detailing the rationale for any direction in effect on the date of enactment of this Act [July 30, 1977] (i) establishing a minimum or maximum percentage for the allocation of work at any defense research installation to be performed by private contractors, or (ii) directing a change in any such allocation in effect on the date of enactment of this Act.

"(2) Until March 15, 1978, or the end of the 90-day period beginning on the date the report required by this subsection is received by such committees, whichever is earlier, the percentage of all research and exploratory development work to be performed at or by any Department of Defense research installation which is to be performed by private contractors may not exceed the percentage of such work that was performed by private contractors during the period beginning on July 1, 1975, and ending on September 30, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2305, 2306, 2310, 2311 of this title; title 50 sections 403c, 1432, 1651.

§ 2305. Formal advertisements for bids; time opening; award; rejection

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2356 of this title; title 42 section 1594; title 50 section 403c.

§ 2306. Kinds of contracts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2310, 2311 of this title; title 50 section 403c.

§ 2307. Advance payments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2310, 2311 of this title; title 50 section 403c.

§ 2308. Assignment and delegation of procurement functions and responsibilities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403c.

§ 2309. Allocation of appropriations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403c.

§ 2312. Remission of liquidated damages

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403c.

§ 2313. Examination of books and records of contractors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2310 of this title; title 50 section 403c.

CHAPTER 139—RESEARCH AND DEVELOPMENT

§ 2353. Contracts: acquisition, construction, or furnishing of test facilities and equipment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 138, 2356 of this title; title 42 sections 241, 6981, 7404.

CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

Sec.
2390. Suggestions for improving procurement policies.

AMENDMENTS

1977—Pub. L. 95-79, title VIII, § 815(b), July 30, 1977, 91 Stat. 338, added item 2390.

§ 2382. Aircraft: contract requirements

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7343 of this title; title 50 App. section 1212.

§ 2390. Suggestions for improving procurement policies

(a) The Secretary of Defense shall request each commissioned officer, and each civilian employee above grade GS-12, who is scheduled for retirement and who is, or was at any time within one year prior to such scheduled retirement, assigned to, or employed in, military procurement to submit suggestions for methods to improve procurement policies, including suggestions for improving competitive bidding procedures and for reducing or eliminating any inequities that may exist. Such request shall be made of each such commissioned officer or employee not less than 30 days preceding his release from active duty or his separation. Submission of suggestions shall be at the option of each such commissioned officer or employee, and each such officer or employee shall be allowed reasonable time during working hours to prepare such suggestions, if such officer or employee chooses to make suggestions under this section.

(b) The Secretary of Defense shall submit a semiannual report to the Committees on Armed Services of the Senate and House of Representatives containing a copy of each suggestion submitted under subsection (a) during the preceding six-month period and the response of the Department of Defense to each such suggestion.

(Added Pub. L. 95-79, title VIII, § 815(a), July 30, 1977, 91 Stat. 337.)

REFERENCES IN TEXT

Grade GS-12, referred to in subsec. (a), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

Sec.
2674. Minor construction projects.
2686. Leases: military family housing.
2687. Base closures and realignments.

AMENDMENTS

1977—Pub. L. 95-82, title V, § 504(a)(2), title VI, §§ 608(b), 612(b), Aug. 1, 1977, 91 Stat. 371, 378, 380, substituted "Minor construction projects" for "Establishment and development of military facilities and installations costing less than $400,000" in item 2674 and added items 2686 and 2687.

§ 2662. Real property transactions: Reports to the Armed Services Committees

CLOSING OF FACILITIES; CLOSURES OR REALIGNMENTS PUBLICLY ANNOUNCED AFTER SEPTEMBER 30, 1977

Pub. L. 95-82, title VI, § 612(c), Aug. 1, 1977, 91 Stat. 380, provided that: "Section 611 of the Military Construction Authorization Act, 1966 (Public Law 89-188; 10 U.S.C. 2662 note), and section 612 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1366) [which was not classified to the Code], shall be inapplicable in the case of any closure of a military installation, and any realignment with respect to a military installation, which is first publicly announced after September 30, 1977."

§ 2665. Sale of certain interests in land; logs

[*See main edition for text of* (a) *to* (c)]

(d) Appropriations of the Department of Defense available for operation and maintenance during a fiscal year may be reimbursed for all expenses of production of lumber and timber products pursuant to this section from amounts received as proceeds from the sale of any such property during such fiscal year.

(As amended Aug. 1, 1977, Pub. L. 95-82, title VI, § 610, 91 Stat. 378.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-82 substituted provisions relating to reimbursement of production expenses during any fiscal year from proceeds from sales for property during such fiscal year, for provisions requiring proceeds from sales under subsecs. (a) or (b) of this section to be credited to the appropriations under which the property concerned was procured.

§ 2674. Minor construction projects

(a) Under such regulations as the Secretary of Defense may prescribe, the Secretary of a military department or the Director of a defense agency may acquire, construct, convert, extend, and install, at military installations and facilities, permanent or temporary public works not otherwise authorized by law including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters.

(b) This section does not authorize a project costing more than $500,000. A project costing more than $400,000 must be approved in advance by the Secretary of Defense, and a project costing more than $300,000 must be approved in advance by the Secretary of the military department or the Director of the defense agency concerned.

(c) The total costs for all projects initiated under authority of this section by any military department, or by the defense agencies, in any fiscal year (except those projects funded from appropriations available for operations and maintenance as provided in subsection (e)) may not exceed the total amount authorized for minor construction projects for such military department or for the defense agencies, as the case may be, in the annual Military Construction Authorization Act for such fiscal year.

(d) Not more than $50,000 may be spent under this section during a fiscal year at any one installation or facility to convert structures to family quarters.

(e) Only funds appropriated to a military department or to the defense agencies for minor construction projects may be used by such department or by such agencies to accomplish minor construction projects, except that the Secretary of a military department or the Director of a defense agency may spend, from appropriations available for maintenance and operations, amounts necessary for any project costing not more than $100,000 that is authorized under this section.

(f) The Secretary of each military department and the Secretary of Defense, for the defense agencies, shall submit an annual detailed report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on the administration of this section. In addition, such committees shall be notified in writing at least 30 days before any funds are obligated for a project approved under this section costing more than $300,000.

(g) As used in this section, "project" means a single undertaking which includes all construction work, land acquisition, and installation of equipment necessary to (1) accomplish a specific purpose, and (2) produce a complete and usable facility or a complete and usable improvement to an existing facility.

(h) The Directors of the defense agencies shall carry out the construction of minor projects under authority of this section by or through a military department designated by the Secretary of Defense as provided in section 2682 of this title.

(As amended Pub. L. 95-82, title VI, § 608(a), Aug. 1, 1977, 91 Stat. 377.)

AMENDMENTS

1977—Pub. L. 95-82 in the section catchline substituted "Minor construction projects" for "Establishment and development of military facilities and installations costing less than $400,000".

Subsec. (a). Pub. L. 95-82 added reference to a Director of a defense agency, and struck out provisions relating to determination of urgently needed projects.

Subsec. (b). Pub. L. 95-82 added reference to Director of the defense agency concerned, and substituted "$500,000" for "$400,000", "$400,000" for "$200,000", and "$300,000" for "$75,000".

Subsec. (c). Pub. L. 95-82 substituted provisions relating to total costs for all projects, for provisions prohibiting more than one allotment for any authorized project.

Subsec. (d). Pub. L. 95-82 reenacted provisions with minor changes in phraseology.

Subsec. (e). Pub. L. 95-82 substituted provisions relating to funds appropriated to a military department or defense agencies for minor construction projects and provisions authorizing not more than $100,000 to be spent from appropriations available for maintenance and operations for any project authorized under this section, for provisions relating to use of appropriations available for military construction under this section, and provisions authorizing not more than $75,000 to be spent from appropriations available for maintenance and operations for any project authorized under this section.

Subsec. (f). Pub. L. 95-82 added provision relating to the Secretary of Defense for the defense agencies and provisions requiring notification of committees concerned regarding projects costing more than $300,000.

Subsecs. (g), (h). Pub. L. 95-82 added subsecs. (g) and (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 608(c) of Pub. L. 95-82 provided that: "The amendments made by this section [amending this section] shall become effective October 1, 1978."

LEASING OF HOUSING FACILITIES

Act July 15, 1955, ch. 368, 3515, 69 Stat. 352, as amended Aug. 3, 1956, ch. 939, title IV, § 412, 70 Stat. 1017; Aug. 30, 1957, Pub. L. 85-241, title IV, § 402, 71 Stat. 555; Aug. 20, 1958, Pub. L. 85-685, title V, § 509, 72 Stat. 662; Aug. 10, 1959, Pub. L. 86-149, title IV, § 407, 73 Stat. 321; June 27, 1961, Pub. L. 87-57, title VI, § 608, 75 Stat. 111; July 27, 1962, Pub. L. 87-554, title V, § 505, 76 Stat. 239; Nov. 7, 1963, Pub. L. 88-174, title V, § 505, 77 Stat. 325; Aug. 1, 1964, Pub. L. 88-390, title V, § 504, 78 Stat. 361; Sept. 16, 1965, Pub. L. 89-188, title V, § 504, 79 Stat. 813; Sept. 12, 1966, Pub. L. 89-568, title V, § 501, 80 Stat. 753; Oct. 21, 1967, Pub. L. 90-110, title VI, § 607, 81 Stat. 305; July 21, 1968, Pub. L. 90-408, title VI, § 606, 82 Stat. 388; Dec. 5, 1969, Pub. L. 91-142, title V, § 507, 83 Stat. 312; Oct. 26, 1970, Pub. L. 91-511, title V, § 506, 84 Stat. 1220; Oct. 27, 1971, Pub. L. 92-145, title V, § 506, 85 Stat. 407; Oct. 25, 1972, Pub. L. 92-545, title V, § 506, 86 Stat. 1149; Nov. 29, 1973, Pub. L. 93-166, title V, § 507(a), 87 Stat. 676; Dec. 27, 1974, Pub. L. 93-552, title V, § 507(a), 88 Stat. 1759; Oct. 7, 1975, Pub. L. 94-107, title V, § 506(a), 89 Stat. 561; Sept. 30, 1976, Pub. L. 94-431, title V, § 503(a), 90 Stat. 1360, which authorized the Secretaries of the Army, Navy, or Air Force to lease housing facilities for assignment as public quarters to military personnel and their dependents at or near any military installation in the United States, Puerto Rico, or Guam if there was a lack of adequate housing at or near such military installation, was repealed, effective Oct. 1, 1977, by Pub. L. 95-82, title V, § 504(b), Aug. 1, 1977, 91 Stat. 371. See section 2686 of this title.

§ 2675. Leases: foreign countries

(a) Notwithstanding any other provision of law, the Secretary of a military department may acquire by lease, in any foreign country, structures and real property relating thereto that are needed for military purposes. A lease under this section may not be for a period of more than five years, except that a lease under this section for military family housing facilities and real property relating thereto may be for a period of more than five years but may not be for a period of more than ten years.

(b) A lease may not be entered into under this section or any other provision of law for structures, family housing facilities, or related real property in any foreign country if the average estimated annual rental during the term of the lease if more than $250,000 until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Services of the Senate and House of Representatives.

[*See main edition for text of* (c)]

(d)(1) The average unit rental for Department of Defense family housing acquired by lease in foreign countries may not exceed $435 per month for the Department, and in no event shall the rental for any one unit exceed $760 per month, including the costs of operation, maintenance, and utilities. The Secretary of Defense may waive the cost limitations specified in the first sentence of this paragraph with respect to not more than 150 such units if such units are leased for incumbents of special positions or for personnel assigned to Defense Attaché Offices or are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

(2) Not more than 15,000 family housing units may be leased in foreign countries at any one time.

(As amended Pub. L. 95-82, title V, § 505(a), Aug. 1, 1977, 91 Stat. 371.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-82, § 505(a)(1), added provisions relating to military family housing facilities and real property related thereto.

Subsec. (b). Pub. L. 95-82, § 505(a)(2), added "or any other provision of law for structures, family housing facilities, or related real property in any foreign country," following "section".

Subsec. (d). Pub. L. 95-82, § 505(a)(3), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 505(c) of Pub. L. 95-82 provided that: "The amendments made by subsection (a) [amending this section] and the repeal made by subsection (b) [repealing section 507(b) of Pub. L. 93-166 which was not classified to the Code] shall take effect October 1, 1977."

§ 2682. Facilities for defense agencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2674 of this title.

§ 2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities

[*See main edition for text of* (a)]

(b) The Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may use the proceeds from the adjustments or surcharges authorized by subsection (a) to acquire, construct, convert, expand, install, or otherwise improve commissary store facilities at defense installations and for related environmental evaluation and construction costs, including surveys, administration, overhead, planning, and design.

(As amended Pub. L. 95-82, title VI, § 614, Aug. 1, 1977, 91 Stat. 380.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-82 struck out "within the United States" following "defense installations".

§ 2686. Leases: military family housing

(a) The Secretaries of the military departments are authorized to lease housing facilities for assignment as public quarters to military personnel and their dependents, without rental charge, at or near any military installation in the United States, Puerto Rico, or Guam, if the Secretary of Defense, or his designee, finds that there is a lack of adequate housing at or near such military installation and that—

(1) there has been a recent substantial increase in military strength and such increase is temporary,

(2) the permanent military strength is to be substantially reduced in the near future,

(3) the number of military personnel assigned is so small as to make the construction of family housing uneconomical,

(4) family housing is required for personnel attending service school academic courses on permanent change of station orders, or

(5) family housing has been authorized but is not yet completed or a family housing authorization request is in a pending military construction authorization bill.

(b) Housing facilities may be leased under subsection (a) on an individual unit basis, and not more than ten thousand such units may be so leased at any one time.

(c) Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation of such facilities, may not exceed—

(1) for housing facilities in the United States (other than Alaska, Hawaii, and Guam) and Puerto Rico, (A) an average of $280 per month for each military department, or (B) $450 per month for any one unit; and

(2) for housing facilities in Alaska, Hawaii, and Guam, (A) an average of $350 per month for each military department, or (B) $450 per month for any one unit.

(Added Pub. L. 95-82, title V, § 504(a)(1), Aug. 1, 1977, 91 Stat. 371.)

EFFECTIVE DATE

Section 504(c) of Pub. L. 95-82 provided that: "The amendments made by subsection (a) [enacting this section] and the repeal made by subsection (b) [repealing provisions set out as a note under section 2674 of this title] shall take effect October 1, 1977."

§ 2687. Base closures and realignments

(a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation;

(2) any realignment with respect to any military installation involving a reduction by more than one thousand, or by more than 50 percent, in the number of civilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b)(1) that such installation is a candidate for closure or realignment; or

(3) any construction, conversion, or rehabilitation at any military facility other than a military installation referred to in clause (1) or (2) (regardless of whether such facility is a military installation as defined in subsection (d)) which will or may be required as a result of the relocation of civilian personnel to such facility by reason of any closure or realignment to which clause (1) or (2) applies,

unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to the closure of, or a realignment with respect to, any military installation may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned publicly announces, and notifies the Committees on Armed Services of the Senate and the House of Representatives in writing, that such military installation is a candidate for closure or realignment;

(2) the Secretary of Defense or the Secretary of the military department concerned complies with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment;

(3) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the Senate and House of Representatives his final decision to carry out the proposed closure or realignment and a detailed justification for such decision, including statements of the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or realignment; and

(4) a period of sixty days expires following the date on which the justification referred to in clause (3) has been submitted to such committees, during which period no irrevocable action may be taken to effect or implement the decision.

(c) This section shall not apply to the closure of a military installation, or a realignment with respect to a military installation, if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or a military emergency.

(d) As used in this section:

(1) "Military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(A) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(B) at which not less than five hundred civilian personnel are authorized to be employed.

Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(2) "Civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(3) "Realignment" includes any action which both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes.

(e) Except as provided in subsection (c), this section shall apply to any closure of a military installation, and any realignment with respect to a military installation, which is first publicly announced after September 30, 1977.

(Added Pub. L. 95-82, title VI, § 612(a), Aug. 1, 1977, 91 Stat. 379.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Subtitle B—Army

PART II—PERSONNEL

CHAPTER 335—APPOINTMENTS IN THE REGULAR ARMY

§ 3313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 1651.

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 437—UTILITIES AND SERVICES

§ 4593. Quarters: heat and light

CHARGES FOR EXCESS ENERGY CONSUMPTION; DEPOSIT OF PROCEEDS; APPLICABILITY; IMPLEMENTATION

Pub. L. 95-82, title V, § 507, Aug. 1, 1977, 91 Stat. 372, provided that:

"(a) In order to accomplish energy conservation, the Secretary of Defense shall, under such regulations as he may prescribe—

"(1) establish a reasonable ceiling for the consumption of energy in any military family housing facility equipped with an appropriate energy consumption metering device; and

"(2) assess the member of the Armed Forces who is the occupant of such facility a charge, at rates to be determined by the Secretary of Defense, for any energy consumption metered at such facility in excess of the ceiling established for such facility pursuant to paragraph (1).

"(b) Any proceeds from excess consumption charges under subsection (a) shall be deposited in the Department of Defense family housing management account established by section 501(a) of the Act entitled 'An Act to authorize certain construction at military installations, and for other purposes', approved July 27, 1962 (42 U.S.C. 1594a-1(a)).

"(c) This section shall apply with respect to any military family housing facility in any State, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

"(d) The provisions of subsection (a)(2) shall not be implemented until—

"(1) the Secretary of Defense conducts a test program to determine the feasibility of assessing occupants of military family housing charges for excess energy consumption;

"(2) the Secretary of Defense provides the written results of such test program, together with proposed regulations implementing this section, to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives; and

"(3) a period of 90 days expires following the date on which the results referred to in clause (2) have been submitted to such committees."

CHAPTER 449—REAL PROPERTY

§ 4774. Construction: limitations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2388 of this title; title 29 section 982; title 42 sections 1592d, 1594h, 2942, 5042; title 48 section 1409b; title 50 section 491.

Subtitle C—Navy and Marine Corps

PART I—ORGANIZATION

Chap.
[516. Repealed.]

AMENDMENTS

1977—Pub. L. 95-82, title VI, § 611(b), Aug. 1, 1977, 91 Stat. 378, struck out item 516 "Naval Districts".

PART I—ORGANIZATION

Chap.
[516. Repealed.]

AMENDMENTS

1977—Pub. L. 95-82, title VI, § 611(b), Aug. 1, 1977, 91 Stat. 378, struck out item 516 "Naval Districts".

CHAPTER 509—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

§ 5081. Chief of Naval Operations: appointment; term of office; powers; duties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5231 of this title.

CHAPTER 516—NAVAL DISTRICTS

[§§ 5221, 5222. Repealed. Pub. L. 95-82, title VI, § 611(a), Aug. 1, 1977, 91 Stat. 378]

Section 5221, added Pub. L. 90-110, title X, § 1001(1), Oct. 21, 1967, 81 Stat. 310, provided for the inclusion of naval districts within the organization of the Department of the Navy.

Section 5222, added Pub. L. 90-110, title X, § 1001(1), Oct. 21, 1967, 81 Stat. 310, provided for the detailing of officers of the Navy not below the grade of rear admiral as commandants of each of the naval districts.

CHAPTER 517—FLEET COMMANDS AND OTHER HIGH POSITIONS

§ 5231. Navy positions: admirals and vice admirals

[*See main edition for text of* (a)]

(b) The number of officers serving in the grades of admiral and vice admiral under subsection (a) of this section and section 5081 of this title may not be more than 15 percent of the number of officers on the active list of the Navy above the grade of captain. Of the number of officers that may serve in the grades of admiral and vice admiral, as determined under this subsection, not more than 25 percent may serve in the grade of admiral.

(c) An officer while serving as Chairman of the Joint Chiefs of Staff, if serving in the grade of admiral, is in addition to the number authorized for that grade under subsection (b) of this section.

(d) An officer of the Navy assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of admiral, unless he is otherwise entitled to the same or a higher grade. Such an appointment is effective while the officer is so serving, and while in that grade he is in addition to the number authorized for that grade under subsection (b) of this section.

(e) An appointment under this section does not create a vacancy in the grade held by the officer at the time he is appointed and does not increase the authorized strength of the Navy in officers on the active list.

(As amended July 30, 1977, Pub. L. 95-79, title VIII, § 811(b)(1), (2), 91 Stat. 336.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-79, § 811(b)(1), substituted provisions authorizing the number of officers under subsec. (a) of this section and section 5081 of this title to be not more than 15 percent of the number of officers on the active list above the grade of captain, for provisions authorizing the number of officers under subsec. (a) of this section to be not more than 15 percent of the number of officers prescribed for rear admiral under section 5442 of this title or, if not operative, section 5447 of this title, and substituted "25 percent may serve in" for "eight may have".

Subsec. (c). Pub. L. 95-79, § 811(b)(2), redesignated former subsec. (d) as (c) and, as so redesignated, struck out reference to former subsec. (c) of this section. Former subsec. (c), relating to the number of officers to serve in the grades of admiral and vice admiral, except in time of war or national emergency, was struck out.

Subsec. (d). Pub. L. 95-79, § 811(b)(2)(B), (C), redesignated former subsec. (e) as (d) and, as so redesignated, struck out reference to former subsec. (c) of this section. Former subsec. (d) redesignated (c).

Subsecs. (e), (f). Pub. L. 95-79, § 811(b)(2)(B), redesignated former subsecs. (e) and (f) as (d) and (e), respectively.

§ 5232. Marine Corps positions: general and lieutenant generals

[*See main edition for text of* (a)]

(b) The number of officers serving in the grades of general and lieutenant general may not be more than 15 percent of the number of officers on the active list of the Marine Corps above the grade of colonel.

(c) An officer of the Marine Corps assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of general. Such an appointment is effective while the officer is so serving, and while in that grade he is in addition to the number authorized for that grade under subsection (b) of this section.

[*See main edition for text of* (d)]

(As amended July 30, 1977, Pub. L. 95-79, title VIII, § 811(b)(3), (4), 91 Stat. 336.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-79, § 811(b)(3), substituted provisions setting forth criteria for determination of number of officers authorized to be serving in the grades of general and lieutenant general, for provisions setting forth criteria for determination of number of officers authorized to be serving in the grade of lieutenant general.

Subsec. (c). Pub. L. 95-79, § 811(b)(4), added provision authorizing the appointed officer to be in addition to the number allowed under subsec. (b) of this section.

PART II—PERSONNEL

CHAPTER 533—DISTRIBUTION IN GRADE

§ 5442. Navy: line officers on active duty

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5445, 5446, 5451, 5778 of this title.

§ 5443. Marine Corps: officers on active duty

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5445, 5446, 5451, 5778 of this title

§ 5447. Navy: line officers on active list; permanent grade

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5455, 5780 of this title.

§ 5448. Marine Corps: officers on active list; permanent grade

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5455, 5780 of this title.

CHAPTER 573—INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

§ 6386. Suspension: preceding sections

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 1651.

CHAPTER 575—RECALL TO ACTIVE DUTY

§ 6485. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall

[*See main edition for text of (a)*]

(b) In time of peace any member of the Fleet Reserve or the Fleet Marine Corps Reserve may be required to perform not more than two months' active duty for training in each four-year period.

(As amended July 30, 1977, Pub. L. 95-79, title VIII, § 805, 91 Stat. 333.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-79 struck out requirements relating to physical examinations for members of the Fleet Reserve and Fleet Marine Corps Reserve.

PART IV—GENERAL ADMINISTRATION

CHAPTER 633—NAVAL VESSELS

§ 7300. Contracts for construction: profit limitation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 1212.

§ 7304. Examination by board; unfit vessels stricken from Naval Vessel Register

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7305, 7306, 7307 of this title.

CHAPTER 641—NAVAL PETROLEUM RESERVES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 30 section 353; title 42 sections 6214, 7156, 7235.

§ 7421. Jurisdiction and control

TRANSFER OF FUNCTIONS

All functions vested by this chapter in the Secretary of the Navy relating to jurisdiction over naval petroleum reserves numbered 1 (Elk Hills) and 2 (Buena Vista) located in California, naval petroleum reserve numbered 3 located in Wyoming, oil shale reserve numbered 2 located in Utah, and oil shale reserves numbered 1 and 3 located in Colorado, were transferred to, and vested in, the Secretary of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See section 7156 of Title 42, The Public Health and Welfare.

§ 7422. Administration

TRANSFER OF FUNCTIONS

All functions vested by this chapter in the Secretary of the Navy relating to the administration of naval petroleum reserves numbered 1 (Elk Hills) and 2 (Buena Vista) located in California, naval petroleum reserve numbered 3 located in Wyoming, oil shale reserve numbered 2 located in Utah, and oil shale reserves numbered 1 and 3 located in Colorado, were transferred to, and vested in, the Secretary of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See section 7156 of Title 42, The Public Health and Welfare.

§ 7433. Disposition of royalties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7432 of this title; title 16 section 470h; title 30 section 191; title 43 section 1601.

§ 7438. Rifle, Colorado, plant; possession, use, and transfer of

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 649—QUARTERS, UTILITIES, AND RELATED SERVICES

§ 7571. Quarters or other accommodations: to whom furnished

CHARGES FOR EXCESS ENERGY CONSUMPTION; DEPOSIT OF PROCEEDS; APPLICABILITY; IMPLEMENTATION

Assessment of members for excess energy consumption in military family housing facilities, see section 507 of Pub. L. 95-82, title V, Aug. 1, 1977, 91 Stat. 372, set out as a note under section 4593 of this title.

Subtitle D—Air Force

PART II—PERSONNEL

CHAPTER 835—APPOINTMENTS IN THE REGULAR AIR FORCE

§ 8313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 1651.

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 937—UTILITIES AND SERVICES

§ 9593. Quarters: heat and light

CHARGES FOR EXCESS ENERGY CONSUMPTION; DEPOSIT OF PROCEEDS; APPLICABILITY; IMPLEMENTATION

Assessment of members for excess energy consumption in military family housing facilities, see section 507 of Pub. L. 95-82, title V, Aug. 1, 1977, 91 Stat. 372, set out as a note under section 4593 of this title.

CHAPTER 949—REAL PROPERTY

§ 9774. Construction: limitations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2388 of this title; title 42 section 1592d; title 48 section 1409b; title 50 section 491.

TITLE 11—BANKRUPTCY

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 15 sections 78eee, 80a-25; title 42 sections 294w, 656; title 45 sections 662, 701, 791; title 48 section 1694.

CHAPTER 5—OFFICERS, THEIR DUTIES AND COMPENSATION

§ 68. Compensation of referees; referees' salary and expense fund; retirement of referees

FIRST COMPARABILITY PAY ADJUSTMENT AFTER JULY 11, 1977, IN SALARY AND RATE OF PAY OF JUSTICES, JUDGES, COMMISSIONERS, AND REFEREES NOT TO TAKE EFFECT

The first adjustment which, but for the enactment of Pub. L. 95-66, July 11, 1977, 91 Stat. 270, would have been made in the salary and rate of pay of justices, judges, commissioners, and referees under section 461 of Title 28, Judiciary and Judicial Procedure, after July 11, 1977, not to take effect, see section 1(3) of Pub. L. 95-66, set out as a note under section 461 of Title 28.

INCREASES IN COMPENSATION

* * * * *

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, set out as a note under section 5332 of Title 5, Government Organization and Employees, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 5332 of Title 5.

CHAPTER 8—PROVISIONS FOR THE RELIEF OF DEBTORS

§ 205. Reorganization of railroads engaged in interstate commerce

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 107, 205a, 208, 506 of this title; title 26 sections 108, 302, 354, 371, 374, 4382; title 45 sections 661, 662, 666, 702, 717, 719, 721, 743, 744, 745, 791, 825, 826, 831; title 49 section 20b.

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TITLE 12—BANKS AND BANKING

Chap.		Sec.
30.	Community Reinvestment [New].....	2901

CHAPTER 2—NATIONAL BANKS

SUBCHAPTER I—ORGANIZATION AND GENERAL PROVISIONS

§ 24. Corporate powers of associations

REFERENCES IN TEXT

In par. Seventh, on page 9 of the main volume, references to "subsection (b) of section 22 of the United States Housing Act of 1937" and "said subsection 22(b)" should be references to "section 6(g) of the United States Housing Act of 1937" pursuant to the amendment made by Pub. L. 93-383.

§ 26. Comptroller to determine if association can commence business

Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in this chapter, and the association transmitting the same notifies the comptroller that all of its capital stock has been duly paid in, and that such association has complied with all the provisions of this chapter required to be complied with before an association shall be authorized to commence the business of banking, the comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of this chapter required to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the comptroller to determine whether the association is lawfully entitled to commence the business of banking.

(R.S. § 5168; Pub. L. 86-230, § 2, Sept. 8, 1959, 73 Stat. 457.)

CODIFICATION

Section is set out in this supplement to correct typographical error appearing in the main edition.

SUBCHAPTER IV—REGULATION OF THE BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

§ 95a. Regulation of transactions in foreign exchange of gold and silver; property transfers; vested interests, enforcement and penalties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 95b, 212, 213 of this title; title 31 section 1141.

SUBCHAPTER XIV—BANK CONSERVATION ACT

§ 209. Conservators subject to certain sections of title 18

REFERENCES IN TEXT

Section 281 of title 18, referred to in text, was repealed by Pub. L. 87-849, § 2, Oct. 21, 1962, 76 Stat. 1126, except as section 281 may apply to retired officers of the armed forces, and was supplanted by section 203 of Title 18, Crimes and Criminal Procedure. For further details, see Exemptions note set out under section 281 of Title 18.

CHAPTER 3—FEDERAL RESERVE SYSTEM

SUBCHAPTER I—DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

Sec.

225a. General policy; Congressional review; semiannual hearings before Congressional committees [New].

SUBCHAPTER V—FEDERAL DEPOSIT INSURANCE CORPORATION

266. State-chartered banks and other institutions as depositaries of public money; fiscal agents; duties [New].

SUBCHAPTER I—DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

§ 225a. General policy; Congressional review; semiannual hearings before Congressional committees

The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. The Board of Governors shall consult with Congress at semiannual hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on

Banking, Finance and Urban Affairs of the House of Representatives about the Board of Governors' and the Federal Open Market Committee's objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates for the upcoming twelve months, taking account of past and prospective developments in production, employment, and prices. Nothing in this chapter shall be interpreted to require that such ranges of growth or diminution be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions.

(Dec. 23, 1913, ch. 6, § 2A, as added Nov. 16, 1977, Pub. L. 95-188, title II, § 202, 91 Stat. 1387.)

REFERENCES IN TEXT

This chapter, referred to in text, was, in the original, this Act, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, known as the Federal Reserve Act. For complete classification of this act to the Code, see Distribution note under section 226 of this title and Tables.

CODIFICATION

Another section 202 of Pub. L. 95-188 amended section 302 of this title.

§ 226. "Federal Reserve Act"

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-188, title II, § 201, Nov. 16, 1977, 91 Stat. 1387, provided that: "This title [which enacted section 225a of this title, amended sections 242 and 302 of this title and section 208 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as a note under section 242 of this title] may be cited as the 'Federal Reserve Reform Act of 1977'."

SUBCHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

§ 242. Ineligibility to hold office in member banks; qualifications and terms of office of members; chairman and vice chairman; oath of office

The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on August 23, 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years. The chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and subscribe to the oath of office. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after August 23, 1935, shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years.

(As amended Nov. 16, 1977, Pub. L. 95-188, title II, § 204(a), 91 Stat. 1388.)

AMENDMENTS

1977—Pub. L. 95-188 substituted in third sentence "one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years" for "one shall be designated by the President as chairman and one as vice chairman of the Board, to serve as such for a term of four years".

EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Section 204(b) of Pub. L. 95-188 provided that: "The amendment made by subsection (a) [to the third sentence of this section] takes effect on January 1, 1979, and applies to individuals who are designated by the President on or after such date to serve as Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System".

SUBCHAPTER V—FEDERAL DEPOSIT INSURANCE CORPORATION

§ 266. State-chartered banks and other institutions as depositaries of public money; fiscal agents; duties

Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

(Pub. L. 95-147, § 2(d), Oct. 28, 1977, 91 Stat. 1228.)

CODIFICATION

Section was not enacted as part of act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act, which comprises this chapter.

SUBCHAPTER VII—DIRECTORS OF FEDERAL RESERVE BANKS; RESERVE AGENTS AND ASSISTANTS

§ 302. Number of members; classes

Such board of directors shall be selected as hereinafter specified and shall consist of nine members, holding office for three years, and divided into three classes, designated as classes A, B, and C.

Class A shall consist of three members, without discrimination on the basis of race, creed, color, sex, or national origin, who shall be chosen by and be representative of the stockholding banks.

Class B shall consist of three members, who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

(As amended Nov. 16, 1977, Pub. L. 95-188, title II, § 202, 91 Stat. 1387.)

CODIFICATION

Another section 202 of Pub. L. 95-188 enacted section 225a of this title.

AMENDMENTS

1977—Second par. Pub. L. 95-188, § 202(a), required Class A members to be chosen without discrimination on the basis of race, creed, color, sex or national origin.

Third par. Pub. L. 95-188, § 202(b), substituted requirement that Class B members represent the public and be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers for prior requirement that such Class B members, at the time of their election, be actively engaged in their district in commerce, agriculture or some other industrial pursuit.

Fourth par. Pub. L. 95-188, § 202(c), required Class C members to be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

SUBCHAPTER IX—POWERS AND DUTIES OF FEDERAL RESERVE BANKS

§ 355. Purchase and sale of obligations of National, State, and municipal Governments; open market operations

Every Federal reserve bank shall have power:

(1) To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 1463 of this title and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System: *Provided*, That, notwithstanding any other provision of this chapter, (1) until May 1, 1978, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities either in the open market or directly from or to the United States; but all such purchases and sales shall be made in accordance with the provisions of section 263 of this title and the aggregate amount of such obligations acquired directly from the United States which is held at any one time by the twelve Federal Reserve banks shall not exceed $5,000,000,000; and (2) after April 30, 1978, and bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market. The Board of Governors of the Federal Reserve System shall include in their annual report to Congress detailed information with respect to direct purchases and sales from or to the United States under the provisions of this proviso.

[*See main edition for text of* (2)]

(As amended Apr. 19, 1977, Pub. L. 95-22, title II, § 201, 91 Stat. 49; Oct. 12, 1977, Pub. L. 95-128, title II, § 209, 91 Stat. 1131; Nov. 7, 1977, Pub. L. 95-154, 91 Stat. 1256.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-154 substituted "May 1, 1978" for "October 1, 1977" and "April 30, 1978" for "September 30, 1977".

Pub. L. 95-128 substituted "October 1, 1977" for "November 1, 1978" and "September 30, 1977" for "October 31, 1978".

Pub. L. 95-22 substituted "November 1, 1978" for "November 1, 1976" and "October 31, 1978" for "October 31, 1976".

SUBCHAPTER X—POWERS AND DUTIES OF MEMBER BANKS

§ 371b. Rate of interest on time deposits; payment of time deposits before maturity; waiver of notice requirements for withdrawal of savings deposits

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Amendment of provisions of this section preceding the third sentence thereof by Pub. L. 89-597, effective only through December 15, 1978, and, effective De-

cember 15, 1978, such provisions further amended to read as they would without the amendment made by section 2(c) of Pub. L. 89-597, see section 7(1) of Pub. L. 89-597, as amended, set out as an Effective and Termination Dates of 1966 Amendment note under section 461 of this title.

SUBCHAPTER XIV—BANK RESERVES

§ 461. Definitions, payment of interest, and regulations; reserves against deposits; form of reserves

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Section 7 of Pub. L. 89-597, as amended by Pub. L. 90-87, Sept. 21, 1967, 81 Stat. 226; Pub. L. 90-505, Sept. 21, 1968, 82 Stat. 856; Pub. L. 91-71, Sept. 22, 1969, 83 Stat. 115; Pub. L. 91-151, title I, § 1, Dec. 23, 1969, 83 Stat. 371; Pub. L. 92-8, § 1, Mar. 31, 1971, 85 Stat. 13; Pub. L. 92-15, § 1, May 18, 1971, 85 Stat. 38; Pub. L. 93-63, July 6, 1973, 87 Stat. 147; Pub. L. 93-100, § 1, Aug. 16, 1973, 87 Stat. 342; Pub. L. 93-495, title I, § 107, Oct. 28, 1974, 88 Stat. 1505; Pub. L. 94-200, title I, § 101, Dec. 31, 1975, 89 Stat. 1124; Pub. L. 95-22, title I, § 101, Apr. 19, 1977, 91 Stat. 49; Pub. L. 95-188, title I, § 101, Nov. 16, 1977, 91 Stat. 1387, provided that: "Effective December 15, 1978:

* * * * *

CHAPTER 6A—EXPORT-IMPORT BANK OF THE UNITED STATES

§ 635. Powers and functions of Bank

[*See main edition for text of* (a)]

(b) Guarantees, insurance, and extension of credit functions; competitive with Government-supported rates and terms and conditions of foreign exporting countries; survey and report; interest rates; private capital and small business concern encouragement; national interest determinations; loans to Union of Soviet Socialist Republics for fossil fuel research, etc.; nuclear safeguards violations resulting in limitations on exports and credit; defense article credit sales to less developed countries; amount outstanding

(1)(A) It is the policy of the United States to foster expansion of exports of goods and related services, thereby contributing to the promotion and maintenance of high levels of employment and real income and to the increased development of the productive resources of the United States. To meet this objective, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive with the Government-supported rates and terms and other conditions available for the financing of exports from the principal countries whose exporters compete with United States exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. The Bank shall, on a semiannual basis, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with the United States exporters and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. Further, the Bank shall at the same time survey a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the semiannual report required by this subparagraph. The Bank shall also include in the semiannual report a description of each loan by the Bank involving the export of any product or service related to the production, refining or transportation of any type of energy or the development of any energy resource with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States.

(B) It is further the policy of the United States that loans made by the Bank shall bear interest at rates determined by the Board of Directors of the Bank, taking into consideration the average cost of money to the Bank as well as the Bank's mandate to support United States exports at rates and on terms and conditions which are competitive with exports of other countries; that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, and small commercial banks in the formulation and implementation of its programs; that the Bank shall give due recognition to the policy stated in section 631(a) of title 15 that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise" and that in furtherance of this policy the Board of Directors shall designate an officer of the Bank who shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns and who, among other duties, shall be responsible for advising small businessmen of the opportunities for small business concerns in the functions of the Bank and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability

of materials which are in short supply in the United States, and employment in the United States, and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country.

[*See main edition for text of* (2)]

(3) No loan or financial guarantee or combination thereof (i) in an amount which equals or exceeds $60,000,000, (ii) in an amount which equals or exceeds $25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviet Socialist Republics, or (iii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

[*See main edition for text of* (*A*) *and* (*B*)]

(4) The Secretary of State shall report to the appropriate committees of Congress and to the Board of Directors of the Export-Import Bank if he determines that any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards or that any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement or that any country that is not a nuclear-weapons state (as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons) detonates, after October 26, 1977, a nuclear explosive device. The Secretary shall specify which country or countries he has determined to have so acted, and the Board shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country unless the President determines that it is in the national interest for the Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country and such determination has been reported to the Congress not less than twenty-five days of continuous session of the Congress prior to the date of such approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the twenty-five day period referred to in such sentence.

(5) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict, declared or otherwise, with the Armed Forces of the United States, (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A), or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility. The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest.

(6) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country designated under section 4916 of title 26 as an economically less developed country for purposes of the tax imposed by section 4911 of title 26. The prohibitions set forth in this paragraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arms races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress.

(7) In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 635e of this title for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

[*See main edition for text of* (c)]

(As amended Oct. 26, 1977, Pub. L. 95-143, §§ 1-3, 91 Stat. 1210.)

AMENDMENTS

1977—Subsec. (b)(1)(A). Pub. L. 95-143, § 1, inserted "and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing" following "government-supported export financing".

Subsec. (b)(1)(B). Pub. L. 95-143, § 2, inserted ", and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country" following "employment in the United States".

Subsec. (b)(3). Pub. L. 95-143, § 3(a), inserted "(i)" following "No loan or financial guarantee or combination thereof" and ", or (iii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities," following "Union of Soviet Socialist Republics" and substituted ", (ii) in an amount" for "shall be finally approved by the Board of Directors of the Bank, and no loan or financial guarantee or combination thereof".

Subsec. (b)(4). Pub. L. 95-143, § 3(b), added subsec. (b)(4). Former subsec. (b)(4) redesignated (b)(5).

Subsec. (b)(5). Pub. L. 95-143, § 3(b), (c), redesignated former subsec. (b)(4) as (b)(5) and, as so redesignated, added cl. (C). Former subsec. (b)(5) redesignated (b)(6).

Subsec. (b)(6). Pub. L. 95-143, § 3(b), redesignated former subsec. (b)(5) as (b)(6). Former subsec. (b)(6) redesignated (b)(7).

Subsec. (b)(7). Pub. L. 95-143, § 3(b), redesignated former subsec. (b)(6) as (b)(7).

§ 635f. Termination date of Bank's functions; exceptions; liquidation

Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on September 30, 1978, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issuing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank.

(As amended Oct. 26, 1977, Pub. L. 95-143, § 4, 91 Stat. 1211.)

AMENDMENTS

1977—Pub. L. 95-143 substituted "September 30, 1978" for "June 30, 1978".

CHAPTER 7A—AGRICULTURAL MARKETING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1150a of this title; title 15 section 78*l*; title 49 sections 303, 1002.

CHAPTER 11—FEDERAL HOME LOAN BANKS

§ 1425b. Rate of interest payable on deposits, shares or withdrawable accounts by members, insured institutions and other nonmember financial institutions

EFFECTIVE AND TERMINATION DATES

Section repealed effective December 15, 1978, see section 7(4) of Pub. L. 89-597, as amended, set out as an Effective and Termination Dates of 1966 Amendment note under section 461 of this title.

§ 1426. Capital stock

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422, 1430, 1730, 2804 of this title; title 15 sections 1607, 1681s, 1691c, 1692*l*.

§ 1428a. Federal Savings and Loan Advisory Council; creation; composition and duties

SUBSISTENCE AND TRAVEL EXPENSES

Pub. L. 95-119, title III, § 301, Oct. 4, 1977, 91 Stat. 1087, provided in part that: "Members and alternates of the Federal Savings and Loan Advisory Council shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703".

Similar provisions were contained in following appropriation act:

Aug. 9, 1976, Pub. L. 94-378, title III, § 301, 90 Stat. 1108.

§ 1430. Advances

[*See main edition for text of* (a)]

(b) Home mortgages as security

No home mortgages shall be accepted as collateral security for an advance by a Home Loan Bank if, at the time such advance is made (1) the home mortgage loan secured by it has more than thirty years to run to maturity, unless such home mortgage is insured under the National Housing Act, as amended [12 U.S.C. 1701 et seq.], or insured or guaranteed under the Servicemen's Readjustment Act of 1944, as amended, chapter 37 of title 38, or (2) the home mortgage exceeds a sum equal to the dollar limitation under the first proviso of the first sentence of section 1464(c) of this title for each home or other dwelling unit covered by such mortgage, or (3) is past due more than six months when presented, unless the amount of the debt secured by such home mortgage is less than 50 per centum of the value of the real estate with respect to which the home mortgage was given, as such real estate was appraised when the home mortgage was made. For the purposes of this subsection and subsection (a) of this section the value of real estate shall be as of the time the advance is made and shall be established by such certification by the borrowing institution or such other evidence, as

the board may require. For the purposes of this section, each Home Loan Bank shall have power to make, or to cause or require to be made, such appraisals and other investigations as it may deem necessary. No home mortgage otherwise eligible to be accepted as collateral security for an advance by a Home Loan Bank shall be accepted if any director, officer, employee, attorney or agent of the Home Loan Bank or of the borrowing institution is personally liable thereon, unless the board has specifically approved by formal resolution such acceptance.

[*See main edition for text of* (c) *and* (d)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title IV, § 406, 91 Stat. 1137.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-128 substituted prohibition against acceptance of a home mortgage as collateral security for an advance by a Federal Home Loan Bank if, at the time the advance is made, the home mortgage exceeds a sum equal to the dollar limitation under the first proviso of the first sentence of section 1464(c) of this title for each home or other dwelling unit covered by such mortgage for prior prohibition where the home mortgage exceeded a sum equal to $55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitation, might, by regulation of the Board, be increased by not to exceed 50 per centum) for each home or other dwelling unit covered by the mortgage.

§ 1437. Federal Home Loan Bank Board; powers and duties; independent agency; report to Congress

EXTENSION OF TERM OF OFFICE

Pub. L. 95-90, Aug. 4, 1977, 91 Stat. 564, provided that, effective July 1, 1977, through Aug. 15, 1977, any member of the Federal Home Loan Bank Board whose term of office is expiring shall continue to serve until a successor is appointed and has qualified, but not to exceed forty-five days.

Pub. L. 95-56, June 29, 1977, 91 Stat. 252, provided that, effective through July 31, 1977, any member of the Federal Home Loan Bank Board whose term of office is expiring continue to serve until a successor is appointed and has qualified, but not to exceed thirty days.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427, 2804 of this title; title 15 sections 1607, 1681s, 1691c, 1692*l*.

CHAPTER 11A—FEDERAL HOME LOAN MORTGAGE CORPORATION

§ 1454. Purchase and sale of mortgages; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authoirty to enter into, perform, and carry out transactions

(a) [*See main edition for text of* (1)]

(2) No conventional mortgage shall be purchased under this section if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the Corporation. The Corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The Corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase does not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation. The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it, but such limitations shall not exceed by more than 25 per centum the limitations contained in the first proviso to the first sentence of section 1464(c) of this title.

[*See main edition for text of* (3); (b)]

(As amended Pub. L. 95-128, title IV, § 408(b), Oct. 12, 1977, 91 Stat. 1138.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-128 inserted in last sentence "by more than 25 per centum" following "exceed".

CHAPTER 12—FEDERAL SAVINGS AND LOAN ASSOCIATIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 433; title 41 section 22.

§ 1464. Federal Savings and Loan Associations

[*See main edition for text of* (a) *and* (b)]

(c) Loans; security required; investment of assets

Such associations shall lend their funds only on the security of their saving accounts or on the security of first liens upon real property within one hundred miles of their home office or within the State in which such home office is located which constitute first liens upon homes, combinations of homes and business property, other dwelling units, or combinations of dwelling units, including homes, and business property involving only minor or incidental business use (all of which may be defined by the Board): *Provided,* That not more than $60,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitation may, by regulation of the Board, be increased by not to exceed 50 per centum) for each single-family dwelling, and not more than such amount per room as the Board may deter-

mine by regulation within the limits allowable (at the time of the loan) in section 207(c)(3) of the National Housing Act [12 U.S.C. 1713(c)(3)] for any other dwelling unit covered by such lien, shall be loaned on the security of any such lien; except that not exceeding 20 per centum of the assets of such association may be loaned on the security of first liens upon improved real estate without regard to the foregoing limitations, but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess, and additional sums not exceeding 20 per centum of the assets of an association may be used without regard to such area restriction for the making or purchase of participating interests in first liens on real property or the type described in this sentence in the matter preceding this proviso: *And provided further,* That any portion of the assets of such associations may be invested in obligations of, or fully guaranteed as to principal and interest by the United States, or in the stock or bonds of a Federal Home Loan Bank, or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455], or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or any other agency of the United States, or the stock of the Federal National Mortgage Association; or in time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; or in general obligations of any State or of any political subdivision thereof or in obligations or other instruments or securities of the Student Loan Marketing Association; and as used in this section the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States: *And provided further,* That any such association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter. In addition to the loans and investments otherwise authorized, such associations may purchase, subject to all the provisions of this paragraph except the area restriction, loans secured by first liens on improved real estate which are insured under the provisions of the National Housing Act, as amended [12 U.S.C. 1701 et seq.], or insured as provided in the Servicemen's Readjustment Act of 1944, as amended, or chapter 37 of title 38. Structures or parts thereof designed or used as fraternity or sorority houses which include sleeping accommodations for students of a college or university, or designed or used principally for the provision of living accommodations for persons who are students, employees, or members of the staff of a college, university, or hospital, shall be considered, subject to such regulations as the Board may prescribe, "other dwelling units" for the purposes of this subsection.

Without regard to any other provision of this subsection except the area requirement, any such association is authorized to invest a sum not in excess of 20 per centum of the assets of such association in loans insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.], in home improvement loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.], in unsecured loans insured or guaranteed under the provisions of the Servicemen's Readjustment Act of 1944, as amended, or chapter 37 of title 38, and in other loans for property alteration, repair, or improvement, including the construction of new structures related to residential use of the property: *Provided,* That no such loan, unless so insured or guaranteed, shall be made in excess of $15,000. Participating interests in loans secured by mortgages which have the benefit of insurance or guaranty (or a commitment therefor) under the National Housing Act [12 U.S.C. 1701 et seq.], the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38 shall not be taken into account in determining the amount of loans which an association may make within any of the percentage limitations contained in the first proviso of this subsection.

Without regard to any other provision of this subsection, but subject to such prohibitions, limitations, and conditions as the Board may by regulation prescribe, any such association may make and invest in—

(A) any loan not exceeding $15,000 made for the repair, equipping, alteration, or improvement of any real property, or

(B) any loan made for the purpose of mobile home financing.

[*See main edition for text of fourth through twentieth unnumbered pars.*]

Without regard to any other provision of this subsection, any such association is authorized to invest an amount, not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of its assets, in loans or in interests therein the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate within one hundred miles of its home office or within the State in which such office is located, where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income, with or without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party, and, in either case described in clause (i) or (ii), regardless of whether or not the association takes security; and investments under this sentence shall not be included in any percentage of assets or other percentage referred to in this subsection.

Subject to such prohibitions, limitations, and conditions as the Board may prescribe, any such association may invest in loans and ad-

vances of credit and interests therein upon the security of or respecting real property or interests therein used for primarily residential or farm purposes (all of which may be defined by the Board) that do not comply with the limitations and restrictions in this subsection, but no investment shall be made by an association under this sentence if its aggregate outstanding investment under this sentence determined as prescribed by the Board, exclusive of any investment which is or at the time of its making was otherwise authorized, would thereupon exceed 5 per centum of its assets.

Subject to regulation by the Board but without regard to any other provision of this subsection, any such association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated to the same extent as State law authorizes a savings and loan association organized under the laws of such State to borrow from the State mortgage finance agency, except that such an association may not make any loan of such funds at an interest rate which exceeds by more than 1¾ per centum per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

[See main edition for text of (d) to (j)]

(k) Federal savings and loan associations or Federal Home Loan Banks as fiscal agents of United States

When designated for that purpose by the Secretary of the Treasury, any Federal savings and loan association or member of any Federal Home Loan Bank shall be a depositary of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by said Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. Any Federal savings and loan association or member of any Federal Home Loan Bank may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality of the United States, including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(As amended Oct. 12, 1977, Pub. L. 95-128, title IV, §§ 401-405, 91 Stat. 1136, 1137; Oct. 28, 1977, Pub. L. 95-147, § 2(a), 91 Stat. 1227.)

AMENDMENTS

1977—Subsec. (c), first par. Pub. L. 95-128, §§ 402, 405, in first proviso, increased limitation on loans for single family dwellings to $60,000 from $55,000 and inserted "but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess," following "improved real estate without regard to the foregoing limitations,"; and struck out ", and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property" preceding "; except".

Subsec. (c), second and third pars. Pub. L. 95-128, § 404, increased limitation on loans to $15,000 from $10,000.

Subsec. (c), twenty-first par. Pub. L. 95-128, § 401, increased the rate to 5 from 3 per centum.

Subsec. (c), twenty-second par. Pub. L. 95-128, § 403, authorized use of real property or interests for farm purposes.

Subsec. (k). Pub. L. 95-147 inserted "shall be a depositary of public money and" following "Federal Home Loan Bank" and ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection" following "instrumentality of the United States".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1430, 1454, 1462, 1465, 1466a, 1717, 1725, 1729, 2804, 2805 of this title; title 15 sections 18a, 1607, 1681s, 1691c, 1692*l*.

CHAPTER 13—NATIONAL HOUSING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 371, 1430, 1454, 1464, 1701z-7, 1709a, 2710 of this title; title 7 section 1933; title 11 sections 663, 917; title 15 section 77ddd; title 38 section 1804; title 40 section 474; title 42 sections 1437*f*, 2322, 3012; title 48 section 1425.

§ 1701. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-24, § 1, Apr. 30, 1977, 91 Stat. 55, provided: "That this Act [which amended sections 1706e, 1715k, 1715*l*, 1735c, 1749bbb, and 1749bbb-8 of this title and sections 1437c, 1437*f*, 1437g, and 1451 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note under section 1441 of Title 42] may be cited as the 'Supplemental Housing Authorization Act of 1977'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89-429, § 1, May 24, 1966, 80 Stat. 164, provided: "That this act [enacting section 745 of Title 20, Education, amending sections 1717, 1720(c), 1749(d), and 1757(7) of this title, section 1988(c) of Title 7, Agriculture, and section 743(c) of Title 20, and enacting material set out as a note under section 1717 of this title and section 262 of former Title 5, Executive Departments and Government Officers and employees] may be cited as the 'Participation Sales Act of 1966'."

SHORT TITLE OF 1950 AMENDMENT

Act Apr. 20, 1950, ch. 94, § 1, 64 Stat. 48, provided that "This Act [which enacted sections 1701*j* to 1701*l*, 1715e, 1715*f*, and 1749 to 1749c of this title and sections 1581 to 1589 and 1590 of Title 42, The Public Health and Welfare; amended sections 371, 1430, 1701c, 1703, 1705, 1706, 1706b, 1706c, 1707 to 1709, 1710 to 1715, 1715b, 1715c, 1716, 1717, 1720, 1721, 1736 to

1746, 1747 to 1747c, and 1747e to 1747*l* of this title, section 1017 of Title 7, Agriculture, section 604 of Title 15, Commerce and Trade, and sections 1412, 1521 to 1524, 1532, 1533, 1542 to 1548, 1552, 1553, 1561, 1571, 1572, and 1575 of Title 42; and enacted provisions set out as notes under sections 1701, 1701k, 1703, and 1709 of this title, section 1017 of Title 7, and section 1412 of Title 42] may be cited as the Housing Act of 1950".

§ 1701j-2. National Institute of Building Sciences

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1452b, 6832.

§ 1701q. Loans for housing and related facilities for elderly or handicapped families

[*See main edition for text of (a) to (c)*]

(d) Definitions

As used in this section—

[*See main edition for text of (1) and (2)*]

(3) The term "development cost" means cost of construction of housing and of other related facilities, and of the land on which it is located, including necessary site improvement, which cost shall be determined without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 231 of the National Housing Act [12 U.S.C. 1715v].

[*See main edition for text of (4) to (8); (e) and (f)*]

(g) Regulations; coordination of applications for loans under this section and section 1437*f* of title 42

In carrying out the provisions of this section and section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the Secretary shall issue and implement regulations, as soon as practicable after October 12, 1977, which shall provide that the processing of any application for a loan for a project under this section and the processing of any application for assistance under such section 8 [42 U.S.C. 1437f] with respect to housing units in the same such project shall be coordinated in an economical and efficient manner.

(As amended Pub. L. 95-128, title II, § 202, Oct. 12, 1977, 91 Stat. 1129.)

AMENDMENTS

1977—Subsec. (d)(3). Pub. L. 95-128, § 202(a), provided for determination of "development cost" without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 1715v of this title.

Subsec. (g). Pub. L. 95-128, § 202(b), added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1715*l*, 1715v, 1715z-1 of this title; title 42 sections 1402, 1436, 1437c, 1437f, 1438, 1439, 1485.

§ 1701s. Rent supplement payments for lower income families who are elderly, handicapped, victims of natural disaster, or occupants of substandard housing

REFERENCES IN TEXT

Sections 1402(2) and 1415(7)(b)(ii) of title 42, referred in subsec. (c)(1), is a reference to sections 2(2) and 15(7)(B)(ii) of the United States Housing Act of 1937 prior to the general revision of the Act by Pub. L. 93-383. The Act as so revised is classified to section 1437 et seq. of Title 42, The Public Health and Welfare. Provisions of former section 2(2) of the Act are now covered by section 3(2) of the Act, which is classified to section 1437a(2) of Title 42. Provisions of former section 15(7)(b)(ii) of the Act were not restated in successor section 5(e)(2) of the Act, which is classified to section 1437c(e)(2) of Title 42.

§ 1701x. Assistance with respect to housing for low- and moderate-income families

(a) Authorization to provide information, advice, and technical assistance; scope of assistance; authorization of appropriations

[*See main edition for text of (1)*]

(2) The Secretary shall provide the services described in clause (iii) of paragraph (1) for homeowners assisted under section 1715z of this title and may provide such services for other owners of single family dwelling units insured under subchapter II of this chapter. For purposes of this paragraph and clause (iii) of paragraph (1), the Secretary may provide the services described in such clause directly or may enter into contracts with, make grants to, and provide other types of assistance to private or public organizations with special competence and knowledge in counseling low- and moderate-income families to provide such services.

[*See main edition for text of (3); (b)*]

(As amended Pub. L. 95-128, title IX, § 903, Oct. 12, 1977, 91 Stat. 1149.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-128 authorized the Secretary to provide the services for other owners of single family dwelling units insured under subchapter II of this chapter.

§ 1701z-1. Research and demonstrations; authorization of appropriations; continuing availability of funds

The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. There are authorized to be appropriated for activities under this title [12 U.S.C. 1701z-1 et seq.] not to exceed $65,000,000 for the fiscal year 1977, and not to exceed $60,000,000 for the fiscal year 1978. All funds so appropriated shall remain available until expended unless specifically limited.

(As amended Pub. L. 95-128, title II, § 204, Oct. 12, 1977, 91 Stat. 1129.)

REFERENCES IN TEXT

This title, referred to in text, means title V of the Housing and Urban Development Act of 1970, Pub. L. 91-609, title V, §§ 501 to 508, Dec. 31, 1970, 84 Stat. 1784, which is classified principally to sections 1701z-1 to 1701z-8 of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-128 authorized appropriation of $60,000,000 for fiscal year 1978.

§ 1701z-8. Energy conservation and renewable-resource demonstration

[*See main edition for text of* (a) *and* (b)]

(c) Duties of Secretary

In carrying out the demonstration program required by this section, the Secretary shall—

[*See main edition for text of* (1) *to* (5)]

(6) consult with the Administrator, the Secretary of Housing and Urban Development, and the heads of such other Federal agencies as may be appropriate.

[*See main edition for text of* (d)]

(e) Conditions upon availability of financial assistance

The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator, the Secretary of Housing and Urban Development, and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

[*See main edition for text of* (f) *to* (j)]

(As amended Pub. L. 95-91, title VII, § 709(d), Aug. 4, 1977, 91 Stat. 608.)

AMENDMENTS

1977—Subsec. (c)(6). Pub. L. 95-91 inserted ", the Secretary of Housing and Urban Development," following "the Administrator".

Subsec. (e). Pub. L. 95-91 inserted ", the Secretary of Housing and Urban Development," following "the Administrator".

TRANSFER OF FUNCTIONS

The functions vested in the Secretary of Housing and Urban Development under this section were transferred to the Secretary of Energy by section 7154(b) of Title 42, The Public Health and Welfare.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z-2 of this title; title 42 sections 6325, 6327, 7154.

SUBCHAPTER I—HOUSING RENOVATION AND MODERNIZATION

§ 1703. Insurance of financial institutions

(a) The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them on and after July 1, 1939, and prior to October 1, 1978, for the purpose of (i) financing alterations, repairs, and improvements upon or in connection with existing structures or mobile homes, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a mobile home to be used by the owner as his principal residence or financing the purchase of a lot on which to place such home and paying expenses reasonably necessary for the appropriate preparation of such lot, including the installation of utility connections, sanitary facilities, and paving, and the construction of a suitable pad, or financing only the acquisition of such a lot either with or without such preparation by an owner of a mobile home; and for the purpose of financing the preservation of historic structures, and, as used in this section, the term "historic structures" means residential structures which are registered in the National Register of Historic Places or which are certified by the Secretary of the Interior to conform to National Register criteria; and the term "preservation" means restoration or rehabilitation undertaken for such purposes as are approved by the Secretary in regulations issued by him, after consulting with the Secretary of the Interior. In no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes on and after July 1, 1939, exceed 10 per centum of the total amount of such loans, advances of credit, and purchases: *Provided*, That with respect to any loan, advance of credit, or purchase made after August 2, 1954, the amount of any claim for loss on any such individual loan, advance of credit or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.

[*See main edition for text of second and third pars.*]

(b) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it (1) if the amount of such loan, advance of credit, or purchase exceeds $15,000, except that an obligation financing the purchase of a mobile home may be in an amount not exceeding $16,000 ($24,000 in the case of a mobile home composed of two or more modules); (2) if such obligation has a maturity in excess of fifteen years and thirty-two days, except that such maturity limitation shall not apply if such loan, advance of credit, or purchase is for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes: *Provided,* That an obligation financing the purchase of a mobile home may have a maturity not in excess of fifteen years and thirty-two days (twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules); or (3) unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purposes of this subchapter: *Provided,* That any such obligation with respect to which insurance is granted under this section on or after sixty days from August 7, 1956 shall bear interest, and insurance premium charges, not exceeding (A) an amount, with respect to so much of the net proceeds thereof as does not exceed $2,500, equivalent to $5.50 discount per $100 of original face amount of a one-year note payable in equal monthly installments, plus (B) an amount, with respect to any portion of the net proceeds thereof in excess of $2,500, equivalent to $4.50 discount per $100 of original face amount of such a note; *Provided further,* That the amounts referred to in clauses (A) and (B) of the preceding proviso, when correctly based on tables of calculations issued by the Secretary or adjusted to eliminate minor errors in computation in accordance with requirements of the Secretary, shall be deemed to comply with such proviso: *Provided further,* That insurance may be granted to any such financial institution with respect to any obligation not in excess of $25,000 nor an average amount of $5,000 per family unit and having a maturity not in excess of twelve years and thirty-two days representing any such loan, advance of credit, or purchase made by it if such loan, advance of credit, or purchase is made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families: *Provided further,* That any obligation with respect to which insurance is granted under this section on or after July 1, 1939, may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection. Notwithstanding the foregoing limitations, any loan to finance fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility may involve such principal amount and have such maturity as the Secretary may prescribe.

Notwithstanding the limitations contained in the first proviso to clause (2) of the preceding sentence, a loan financing the purchase of a mobile home and an undeveloped lot on which to place the home shall—

[*See main edition for text of (A)*]

(B) have a maturity not exceeding fifteen years and thirty-two days (twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules).

A loan financing the purchase of a mobile home and a suitably developed lot on which to place the home shall—

[*See main edition for text of (A)*]

(B) have a maturity not exceeding fifteen years and thirty-two days (twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules).

A loan financing the purchase, by an owner of a mobile home which is the principal residence of that owner, of only a lot on which to place that mobile home shall—

(A) involve such an amount as may be necessary to cover the cost of purchasing the lot but not exceeding (i) $5,000 in the case of an undeveloped lot, or (ii) $7,500 in the case of a developed lot; and

(B) have a maturity not exceeding ten years and thirty-two days.

A mobile home lot loan may be made only if the owner certifies that he will place his mobile home on the lot acquired with such loan within six months after the date of such loan.

Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or Hawaii, increase any dollar amount limitation on mobile homes or mobile home lot loans contained in this subsection by not to exceed 40 per centum.

[*See main edition for text of (c) to (h)*]

(As amended June 30, 1977, Pub. L. 95-60, § 1(a), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(a), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title II, §§ 301(a), 306, 91 Stat. 1131, 1134.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 301(a), substituted "October 1, 1978" for "October 1, 1977".

Pub. L. 95-80 substituted "October 1, 1977" for "August 1, 1977".

Pub. L. 95-60 substituted "August 1, 1977" for "June 30, 1977".

Subsec. (b). Pub. L. 95-128, § 306, substituted: in cl. (1) of first sentence "$15,000" for "$10,000" and "$16,000 ($24,000" for "$12,500 ($20,000", and in cl. (2) "fifteen years" for "twelve years"; inserted at end of proviso in cl. (2) "(twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules)"; substituted in subpar. (B) of the second and third paragraphs "twenty-three years" for "twenty years"; and added paragraph at end of subsec.

(b) which authorized the Secretary to increase by regulation any dollar amount limitation on mobile homes or mobile home lot loans contained in this subsection by not to exceed 40 per centum.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706d, 1709-1, 1715h, 1715k, 1715t, 1715w, 1715z, 1715z-5, 1735c of this title; title 42 section 1490g.

§ 1706e. Urban homestead program of unit of general local government, State, or designated public agency

[*See main edition for text of (a) to (f)*]

(g) Authorization of appropriations

To reimburse the housing loan funds for properties transferred pursuant to this section, and to carry out the provisions of subsection (c) of this section, there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1975, not to exceed $6,250,000 for the fiscal year 1976, and for the transition quarter, not to exceed $15,000,000 for fiscal year 1977, and not to exceed $15,000,000 for the fiscal year 1978. Any amounts so appropriated shall remain available until expended.

(As amended Pub. L. 95-24, title I, § 103, Apr. 30, 1977, 91 Stat. 55; Pub. L. 95-128, title II, § 203, Oct. 12, 1977, 91 Stat. 1129.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-128 increased appropriations authorization limitation to $15,000,000 from $5,000,000 for fiscal year 1978.

Pub. L. 95-24 substituted "not to exceed $15,000,000 for fiscal year 1977" for "not to exceed $5,000,000 for fiscal year 1977".

SUBCHAPTER II—MORTGAGE INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1464, 1701x, 1702, 1705, 1709-1a, 1715f, 1720, 1731a, 1735f-2, 1743, 1748b, 2803 of this title; title 29 section 773; title 42 sections 3041e, 3535, 5403.

§ 1708. Mutual Mortgage Insurance Fund

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1735 of this title.

§ 1709. Insurance of mortgages

[*See main edition for text of (a)*]

(b) Eligibility for insurance

To be eligible for insurance under this section a mortgage shall—

[*See main edition for text of (1)*]

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $60,000 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $65,000 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $65,000 in the case of a three-family residence; or $75,000 in the case of a four-family residence; and (except as provided in the next to the last sentence of this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of $25,000. If the mortgagor is a veteran, and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of $25,000. Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38 prior to the beginning of construction. As used herein, the term "veteran" means any person who served on active duty in the armed forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable.

[*See main edition for text of (3) to (9)*]

(c) Premium charges

The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this subchapter but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: *Provided*, That premium charges fixed for insurance under subsection (n) of this section is not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) of this section exceed 1 per centum per annum: *Provided*, That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this

subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date; and in the event that the principal obligation is paid in full as herein set forth the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

[*See main edition for text of (d) to (h)*]

(i) Single-family housing in outlying areas

The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section and not in excess of 97 per centum (or, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum) of the appraised value of a property located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence: *Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property: *Provided further*, That the Secretary finds that the property with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: *Provided further*, That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home on a plot of land five or more acres in size adjacent to a public highway.

[*See main edition for text of (j) to (n)*]

(o) Insurance of mortgages on owner occupied homes in communities subject to adverse economic conditions resulting from Indian claims to ownership of land; obligation of Special Risk Insurance Fund

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation may prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise;

(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages;

(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

(E) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or Nation.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner occupant of a home in a community specified in paragraph (1) who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underem-

ployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary is authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are insured under subsection (b) of this section as modified by this subsection forebearance, assignment of mortgages to the Secretary, or such other relief as the Secretary deems appropriate and consistent with the purpose of this subsection. The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 1715z-3 of this title.

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, §§ 303(a), (g), 304(a), 305, 307, 91 Stat. 1132, 1133, 1134.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-128, §§ 303(a), 304(a), substituted "$60,000" for "$45,000", "$65,000" for "$48,750" wherever appearing, and "$75,000" for "$56,000" in provisions preceding cl. (i); struck out in cl. (i) following "97 per centum" parenthetical text "(but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum)"; substituted in first sentence "and (ii) 95 per centum of such value in excess of $25,000" for "(ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, and (iii) 80 per centum of such value in excess of $35,000" and in second sentence "and (ii) 95 per centum of such value in excess of $25,000" for "(ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, and (iii) 85 per centum of such value in excess of $35,000"; and inserted following the second sentence provision limiting the mortgage to 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance where the dwelling is not approved for mortgage insurance prior to the beginning of construction.

Subsec. (c). Pub. L. 95-128, § 305, inserted proviso respecting premium charges for insurance under subsec. (n) of this section.

Subsec. (i). Pub. L. 95-128, § 303(g), substituted provision which authorizes the Secretary to insure a mortgage hereunder which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsec. (b) of this section for prior limitation of such insurance on a mortgage which involved a principal obligation not in excess of $16,200.

Subsec. (o). Pub. L. 95-128, § 307, added subsec. (o).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706c, 1707, 1708, 1709-1, 1710, 1711, 1712, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715q, 1715x, 1715w, 1715y, 1715z-2, 1715z-3, 1715z-10, 1723e, 1735, 1735b, 1735c, 1748h-1, 1748h-2, 1750b, 2703 of this title; title 15 section 77d; title 38 section 1803; title 42 sections 1485, 1487.

§ 1709-1. Maximum interest rates for certain programs; expiration date; guaranteed or insured home loans to veterans; mobile home loans

Notwithstanding the provisions of sections 1709(b)(5), 1713(c)(3), 1715e(d), 1715k(d)(4), 1715k(h)(2)(iii), 1715*l*(d)(5), 1715v(c)(6), 1715w(d)(3)(B), 1715y(f), 1715z(j)(2)(C), 1715z-1(j)(4)(B), 1715z-5(c)(4), 1715z-6(b)(3), 1715z-7(d)(3)(B), and 1749aaa(c)(4) of this title regarding the maximum interest rates which the Secretary of Housing and Urban Development may establish for certain mortgage insurance programs authorized by this chapter, the Secretary is authorized, until October 1, 1978, to set the maximum interest rates for such programs at not to exceed such per centum per annum on the amount of the principal obligation outstanding at any time as he finds necessary to meet the mortgage market, and during that time the interest rates so set shall be deemed to be for all purposes the interest rates in effect under the provisions of said section 1709(b)(5) and the other sections referred to above: *Provided*, That in determining the rate to be applicable for the said section 1709(b)(5) program, the Secretary shall consult with the Administrator of Veterans' Affairs regarding the rate which the Administrator considers necessary to meet the mortgage market for guaranteed or insured home loans to veterans under chapter 37 of title 38. Notwithstanding the provisions of section 1703(b) of this title regarding the maximum interest rate which may be established for obligations with respect to which insurance is granted to financial institutions under section 1703 of this title, the Secretary of Housing and Urban Development is also authorized, until the date specified in the preceding sentence, to set the maximum interest rate for obligations with respect to which insurance is granted under such section at such level as he finds necessary to meet the loan market.

(As amended Pub. L. 95-60, § 2, June 30, 1977, 91 Stat. 257; Pub. L. 95-80, § 2, July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, § 302, Oct. 12, 1977, 91 Stat. 1131.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "that Act", referring to the National Housing Act, act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-128 substituted "October 1, 1978" for "October 1, 1977".

Pub. L. 95-80 substituted "October 1, 1977" for "August 1, 1977".

Pub. L. 95-60 substituted "August 1, 1977" for "June 30, 1977".

§ 1713. Rental housing insurance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1464, 1709-1, 1710, 1715c, 1715e, 1715k, 1715*l*, 1715r, 1715v, 1715w, 1715x, 1715y, 1715z-3, 1715z-6, 1715z-7, 1723e, 1731b, 1735, 1743, 1744, 1748b, 1748h-2, 1749aa, 1749hh, 1749aaa-2, 1750g of this title; title 29 section 773; title 42 sections 1594a, 3041e.

§ 1715c. Labor standards

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715e, 1750b of this title; title 42 section 3310.

§ 1715e. Cooperative housing insurance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709-1, 1710, 1715c, 1715n, 1715q, 1715r, 1715y, 1715z, 1715z-6, 1717, 1720, 1723e, 1731b, 1735c of this title.

§ 1715h. General insurance authorization; termination date

Except with respect to the insurance of a loan or mortgage pursuant to section 1703, 1715*l*, 1715z, 1715z-1 of this title, subchapter VIII, IX-A, or IX-B of this chapter (subject to any limitations thereunder on the time of such insurance), no loan or mortgage shall be insured under any provision of this chapter after September 30, 1978, except pursuant to a commitment to insure before that date.

(As amended June 30, 1977, Pub. L. 95-60, § 1(b), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(b), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, § 301(b), 91 Stat. 1131.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, as amended known as the National Housing Act. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

§ 1715k. Rehabilitation and neighborhood conservation housing insurance

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A) be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] before August 2, 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended), or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949 [42 U.S.C. 1462], or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468]: *Provided,* That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been approved for such area by the governing body of the locality involved and by the Secretary of Housing and Urban Development and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further,* That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such section 111 [42 U.S.C. 1462]) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

[*See main edition for text of* (*B*); (*2*)]

(3) The mortgage shall—

(A)(i) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $60,000 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $65,000 in the case of a two-family residence; or $65,000 in the case of a three-family residence; or $75,000 in the case of a four-family residence; or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) $75,000 plus not to exceed $7,700 for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum of (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90 per centum) of $25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of $25,000: *Provided,* That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair

and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further,* That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (1) 100 per centum of $25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of $25,000. As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable;

[*See main edition for text of (ii) to (4); (e) to (h)*]

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 105(b), 91 Stat. 56; Oct. 12, 1977, Pub. L. 95-128, title III, §§ 303(b), 304(b), 91 Stat. 1132, 1133.)

AMENDMENTS

1977—Subsec. (d)(1)(A)(ii). Pub. L. 95-24 struck out "in a community respecting which the Secretary of Housing and Urban Development has made the determination provided for by section 101(c) of the Housing Act of 1949, as amended following "(as defined in title I of the Housing Act of 1949, as amended)".

Subsec. (d)(3)(A). Pub. L. 95-128 substituted "$60,000" for "$45,000", "$65,000" for "$48,750" and "$75,000" for "$56,000" wherever appearing in provisions preceding cl. (1); substituted in text preceding first proviso "and (2) 95 per centum of such value in excess of $25,000" for ", (2) 90 per centum of such replacement cost in excess of $25,000 but not in excess of $35,000, (3) 80 per centum of such replacement cost in excess of $35,000" and in second proviso "and (2) 95 per centum of such value in excess of $25,000" for ", (2) 90 per centum of such replacement cost in excess of $25,000 but not in excess of $35,000, and (3) 85 per centum of such replacement cost in excess of $35,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1709-1, 1713, 1715c, 1715*l*, 1715o, 1715q, 1715r, 1715w, 1715z-2, 1715z-5, 1717, 1720, 1731b of this title.

§ 1715*l*. Housing for moderate income and displaced families

[*See main edition for text of (a) to (c)*]

(d) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section, a mortgage shall—

[*See main edition for text of (1)*]

(2) be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Secretary under subsection (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations, relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, and shall involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount (A) not to exceed (i) $31,000 (or $36,000, if the mortgagor's family includes five or more persons) in the case of a property upon which there is located a dwelling designed principally for a single-family residence, (ii) $35,000 in the case of a property upon which there is located a dwelling designed principally for a two-family residence, (iii) $48,600 in the case of a property upon which there is located a dwelling designed principally for a three-family residence, or (iv) $59,400 in the case of a property upon which there is located a dwelling designed principally for a four-family residence: *Provided,* That a mortgage secured by property upon which there is located a dwelling designed principally for a two-, three-, or four-family residence shall not be insured under this section except in the case of a dwelling for occupancy by the mortgagor: *Provided further,* That the Secretary may increase the foregoing amounts to not to exceed $36,000 (or $42,000 if the mortgagor's family includes five or more persons), $45,000, $57,600, and $68,400, respectively, in any geographical area where he finds that cost levels so require; and (B) not to exceed the appraised value of the property (as of the date the mortgage is accepted for insurance): *Provided further,* That (i) if the mortgagor is the owner and an occupant of the property at the time of insurance, (1) in the case of a displaced family, he shall have paid on account of the property at least $200 in the case of a single-family dwelling, $400 in the case of a two-family dwelling, $600 in the case of a three-family dwelling, and $800 in the case of a four-family dwelling, or (2) in the case of any other family, he shall have paid on account of the property at least 3 per centum of the Secretary's estimate of its acquisition cost, in cash or its equivalent; which amount in either instance may include amounts to cover settlement costs and initial payments for taxes, hazard insurance, mortgage insurance premium, and other prepaid expenses; or (ii) in the case of repair and rehabilitation, the amount of the mortgage shall not exceed the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property: *Provided further,* That nothing contained herein shall preclude the Secretary from issuing a commitment to insure, and insuring a mortgage pursuant thereto, where the mortgagor is not the owner and an occupant of the property, if the property is to be built or acquired and repaired or rehabilitated for sale, and the insured mortgage financing is required to facilitate the construction,

or the repair or rehabilitation, of the dwelling and to provide financing pending the subsequent sale thereof to a qualified owner who is also an occupant thereof, but in such instances the mortgage shall not exceed 85 per centum of the appraised value: *Provided further,* That, if the mortgagor is the owner and an occupant of the property, such mortgagor shall to the maximum extent feasible be given the opportunity to contribute the value of his labor as equity in such dwelling; or

[*See main edition for text of* (3)]

(4) if executed by a mortgagor and which is approved by the Secretary—

[*See main edition for text of* (i) *to* (iv), (5), (6), *and* (e)]

(f) Compliance with standards; nondwelling facilities in projects in urban renewal areas; number of family units; premium charges; housing for low-income purchasers; expiration of mortgage insurance authority; definition of "family"; single occupants in subsection (d)(3) housing; use of certain housing facilities for classroom purposes

The property or project shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants: *Provided,* That in the case of any such property or project located in an urban renewal area, the provisions of section 1715k(d)(3)(B)(iv) of this title shall apply with respect to the nondwelling facilities which may be included in the mortgage: *Provided further,* That, in the case of a mortgage which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5) of this section, the provisions of section 1715k(d)(3)(B)(iv) of this title shall only apply if the mortgagor waives the right to recieve dividends on its equity investment in the portion thereof devoted to commercial facilities.

A property or project covered by a mortgage insured under the provisions of subsection (d)(3) or (d)(4) of this section shall include five or more family units: *Provided,* That such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities, and such projects may include central dining and other shared facilities. The Secretary is authorized to adopt such procedures and requirements as he determines are desirable to assure that the dwelling accommodations provided under this section are available to displaced families. Notwithstanding any provision of this chapter, the Secretary, in order to assist further the provision of housing for low and moderate income families, in his discretion and under such conditions as he may prescribe, may insure a mortgage which meets the requirements of subsection (d)(3) of this section as in effect after June 30, 1961, or which meets the requirements of subsection (h), (i), or (j) of this section with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as the Secretary may determine, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to reimburse the General Insurance Fund for any net losses in connection with such insurance. No mortgage shall be insured under this section after September 30, 1978, except pursuant to a commitment to insure before that date, or except a mortgage covering property which the Secretary finds will assist in the provision of housing for displaced families. Any person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q of this title, or who is a displaced person, shall be deemed to be a family within the meaning of the terms "family" and "families" as those terms are used in this section. Low- and moderate-income persons who are less than 62 years of age shall be eligible for occupancy of dwelling units in a project financed with a mortgage insured under subsection (d)(3) of this section. In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the proviso in section 1715k(d)(3)(B)(iv) of this title except the requirement that the project be predominantly residential).

As used in this section the terms "displaced family", "displaced families", and "displaced person" shall mean a family or families, or a person, displaced from an urban renewal area, or as a result of governmental action, or as a result of a major disaster as determined by the President pursuant to the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.].

[*See main edition for text of* (g) *to* (j)]

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 106, 91 Stat. 56; June 30, 1977, Pub. L. 95-60, § 1(c), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(c), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, §§ 301(c), 303(c), 91 Stat. 1131, 1132.)

AMENDMENTS

1977—Subsec. (d)(2)(A). Pub. L. 95-128 § 303(c), substituted "$31,000" for "$25,000", "$36,000" for "$29,000" in two instances, "$42,000" for "$33,000", "$35,000" for "$28,000", "$48,600" for "$38,880", "$59,400" for "$47,520", "$45,000" for "$36,000", "$57,600" for "$46,080" and "$68,400" for "$54,720".

Subsec. (d)(4). Pub. L. 95-24 struck out "other than a mortgagor referred to in subsection (d)(3) of this section," following "if executed by a mortgagor".

Subsec. (f). Pub. L. 95-128, § 301(c), substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1701u, 1701z-4, 1709-1, 1713, 1715c, 1715h, 1715m, 1715n, 1715o, 1715r, 1715z, 1715z-1, 1715z-2, 1717, 1720, 1731b, 1735b of this title; title 26 section 1250; title 40 section 484b; title 40 App. section 207; title 42 sections 1452b, 1457, 2982c.

§ 1715m. Mortgage insurance for servicemen

[*See main edition for text of* (*a*)]

(b) Eligibility of mortgage for insurance

To be eligible for insurance under this section a mortgage shall—

[*See main edition for text of* (*1*)]

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $60,000, except that in the case of a mortgage meeting the requirements of section 1709(i) or section 1715*l*(d)(2) of this title such principal obligation shall not exceed the maximum limits prescribed for such section;

(3) have a principal obligation not in excess of the sum of (i) 97 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of $25,000; and

[*See main edition for text of* (*4*); (*c*) *to* (*g*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, §§ 303(d), 304(c), 91 Stat. 1132, 1133.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-128 substituted "$60,000" for "$45,000" in par. (2) and "and (ii) 95 per centum of such value in excess of $25,000" for "(ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, and (iii) 80 per centum of such value in excess of $35,000" in par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715q of this title; title 42 section 1594a-1.

§ 1715v. Insurance of mortgages for housing for elderly persons

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701q, 1701s, 1709-1, 1715c, 1715q, 1715r of this title.

§ 1715w. Mortgage insurance for nursing homes and intermediate care facilities

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Terms and conditions; limitation on maximum amount of mortgage; amortization; interest; certification from State agency

In order to carry out the purposes of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home, or intermediate care facility or combined nursing home and intermediate care facility, including equipment to be used in its operation, subject to the following conditions:

[*See main edition for text of* (*1*) *to* (*3*)]

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 291d(a)(1) or section 300m of title 42 for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (A) there is a need for such home or facility or combined home and facility, and (B) there are in force in such State or in the municipality or other political subdivision of the State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section.

[*See main edition for text of* (*e*) *to* (*i*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, § 308(a), 91 Stat. 1135.)

AMENDMENTS

1977—Subsec. (d)(4). Pub. L. 95-128 inserted reference to section 300m of title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709-1, 1715c of this title.

§ 1715y. Mortgage insurance for condominiums

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Authorization; eligibility for insurance; conditions; limits

The Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project, if (1) the mortgage meets the requirements of this subsection and of section 1709(b) of this title, except as that section is modified by this subsection, (2) the project is or has been covered by a mortgage insured under any section (except section 1715e(a)(1) and (2) of this title) of this chapter, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing: *Provided*, That a one-family unit in a multifamily project involving eleven or less units shall be eligible for insurance without having been covered by a project mortgage, and (3) the mortgagor is ac-

quiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection. Any project proposed to be constructed or rehabilitated after June 30, 1961, with the assistance of mortgage insurance under this chapter, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed $60,000, and not to exceed the sum of (i) 97 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and (ii) 95 per centum of such value in excess of $25,000, and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgage or three-fourths of the Secretary's estimate of the remaining economic life of the project, whichever is the lesser. In determining the amount of a mortgage in the case of a nonoccupant mortgagor the reference to paragraph (2) of section 1709(b) of this title in section 1709(b)(8) of this title shall be construed to refer to the preceding sentence in this subsection. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the multifamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project, and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this chapter (other than section 1715e(a)(1) and (2) of this title) to be released from the liens of those mortgages.

[*See main edition for text of* (*d*) *to* (*i*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, §§ 303(e), 304(d), 91 Stat. 1132, 1133.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, known as the National Housing Act. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-128 substituted in cl. (A) "$60,000" for "$45,000" and "and (ii) 95 per centum of such value in excess of $25,000," for "(ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, (iii) 80 per centum of such value in excess of $35,000".

§ 1715z. Homeownership or membership in cooperative association for lower income families

[*See main edition for text of* (*a*)]

(b) Qualifications and eligibility requirements for assistance payments

To qualify for assistance payments, the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

[*See main edition for text of* (*1*)]

(2) the cooperative association of which the family is a member shall operate (A) a housing project the construction or substantial rehabilitation of which has been financed with a mortgage insured under section 1715e or section 1715*l*(d)(3) of this title and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the family: *Provided,* That if any cooperative member who has received assistance payments transfers his membership and occupancy rights to another person who satisfies the eligibility requirements prescribed by the Secretary and undertakes the obligation to pay occupancy charges, the new cooperative member may qualify for assistance payments upon the filing of an application with respect to the dwelling unit involved to be occupied by him: *Provided further,* That assistance payments may be made with respect to a dwelling unit in an existing cooperative project which meets such standards as the Secretary may prescribe, if the family qualifies as a displaced family as defined in section 1715*l*(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing: *Provided further,* That the amount of the mortgage attributable to the dwelling unit shall involve a principal obligation not in excess of $32,000 ($38,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that costs levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $38,000 and $44,000, respectively; or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

[*See main edition for text of* (*c*) *to* (*h*)]

(i) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance

[*See main edition for text of (1) and (2)*]

(3) A mortgage to be insured under this subsection shall—

[*See main edition for text of (A)*]

(B) where it is to cover a one-family unit in a condominium project, have a principal obligation not exceeding $32,000 ($38,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $38,000 and $44,000, respectively;

(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $32,000 ($38,000 in any geographical area where the Seretary[1] authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $38,000 and $44,000, respectively;

(D) involve, in the case of a two-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $44,000 ($49,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require); and

(E) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition.

[*See main edition for text of (j) to (l)*]

(m) Termination date for insurance of mortgages

No mortgage shall be insured under this section after September 30, 1978, except pursuant to a commitment to insure before that date.

(n) Percentage limitation of mortgage insurance on subdivision units; exceptions

No mortgage may be insured under this section on a unit in a subdivision, after October 12, 1977, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary.

(As amended Oct. 12, 1977, Pub. L. 95-128, title II, § 205, title III, §§ 301(d), 303(f), 91 Stat. 1130, 1131, 1132.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-128, §§ 205, 303(f)(1), inserted reference to section 1715*l*(d)(3) of this title and substituted in last proviso "$32,000" for "$25,000", "$38,000" for "$29,000" in two instances, and "$44,000" for "$33,000".

Subsec. (i)(3)(B) to (E). Pub. L. 95-128, § 303(f)(2) to (4), substituted in subpar. (B) "$32,000" for "$25,000", "$38,000" for "$29,000" in two instances, and "$44,000" for "$33,000", added subpars. (C) and (D), and redesignated former subpar. (C) as (E).

Subsec. (m). Pub. L. 95-128, § 301(d), substituted "September 30, 1978" for "September 30, 1977".

Subsec. (n). Pub. L. 95-128, § 303(f)(5), added subsec. (n).

§ 1715z-1. Rental and cooperative housing for lower income families

[*See main edition for text of (a) to (e)*]

(f) Establishment of basic and fair market rental charges; rental for dwelling units; separate utility metering; additional assistance payments for low-income tenants; limitations; amounts; establishment, etc., of initial operating expense level of projects

[*See main edition for text of (1) and (2)*]

(3) For each project there shall be established an initial operating expense level, which shall be the sum of the cost of utilities and local property taxes payable by the project owner at the time the Secretary determines the property to be fully occupied, taking into account anticipated and customary vacancy rates. The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) of this section and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level. Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project. Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments. Additional assistance payments shall be made pursuant to this paragraph unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not comparable to cost increases affecting other rental projects in the community.

[1] So in original. Probably should read "Secretary".

(g) Collection and deposit of excess rental charges for reserve fund for additional assistance payments; availability; establishment of initial operating expense level of assisted project

The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of the basic rental charges. Such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section. During any period that the Secretary determines that the balance in the reserve fund is adequate to meet the estimated additional assistance payments, such excess charges shall be credited to the appropriation authorized by subsection (i) of this section and shall be available until the end of the next fiscal year for the purpose of making assistance payments with respect to rental housing projects receiving assistance under this section. For the purpose of this subsection and paragraph (3) of subsection (f) of this section, the initial operating expense level for any project assisted under a contract entered into prior to October 12, 1977, shall be established by the Secretary not later than 180 days after October 12, 1977.

[*See main edition for text of* (h) *to* (m)]

(n) Termination date for insurance of mortgages

No mortgage shall be insured under this section after September 30, 1978, except pursuant to a commitment to insure before that date.

[*See main edition for text of* (o) and (p)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title II, § 206(a)-(c), title III, § 301(e), 91 Stat. 1130, 1131.)

AMENDMENTS

1977—Subsec. (f)(3). Pub. L. 95-128, § 206(a), (b), substituted "The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) of this section and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level." for "At any time subsequent to the establishment of an initial operating expense level, the Secretary is authorized to make, and contract to make, additional assistance payments to the project owner in an amount up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level, but not to exceed the amount required to maintain the basic rentals of any units at levels not in excess of 30 per centum or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in clause (ii) of the last sentence of paragraph (1), of the income of tenants occupying such units.", inserted sentence "Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project.", and substituted "Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments." for "Any contract to make additional assistance payments may be amended periodically to provide for appropriate adjustments in the amount of the assistance payments."; and substituted in last sentence "unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not" for "only if the Secretary finds that the increase in the cost of utilities or local property taxes, is reasonable and is".

Subsec. (g). Pub. L. 95-128, § 206(c), substituted the date of the enactment of Pub. L. 95-128, which is October 12, 1977, for the date of the enactment of Pub. L. 93-383, which was August 22, 1974.

Subsec. (n). Pub. L. 95-128, § 301(e), substituted "September 30, 1978" for "September 30, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Section 206(d) of Pub. L. 95-128 provided that: "The amendments made by this section [to subsecs. (f)(3) and (g) of this section] shall become effective on October 1, 1977, and shall apply to assistance payments pursuant to section 236(f)(3) of the National Housing Act [subsec. (f)(3) of this section] with respect only to periods commencing on or after such date".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1701u, 1709-1, 1715c, 1715h, 1715r, 1715z to 1715z-3, 1715z-6, 1715z-9, 1717, 1720, 1735c of this title; title 26 section 1250; title 40 section 484b; title 42 sections 1439, 1457, 1483, 1490a, 1490c, 2982c.

§ 1715z-3. Special Risk Insurance Fund

[*See main edition for text of* (a) *and* (b)]

(c) Mortgage insurance for military impacted areas; criteria; obligation of Special Risk Insurance Fund; premiums and other charges: establishment

(1) Notwithstanding the provisions of this chapter or any other Act, and without regard to limitations upon eligibility contained in any section of this subchapter, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this subchapter a mortgage executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, con-

sistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, § 309, 91 Stat. 1135.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original "this [Act]", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, known as the National Housing Act. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-128 substituted provisions of pars. (1) and (2) respecting mortgage insurance for military impacted areas, criteria therefore, and establishment of premiums and other charges for prior subsec. (c), which had authorized use of the Special Risk Insurance Fund to carry out mortgage insurance obligations of sections 1709 and 1713 of this title to provide housing for military personnel, Federal civilian employees, and Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces in federally impacted areas where in the judgment of the Secretary (1) the residual housing requirements for persons not associated with such installations were insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installations, and (2) the benefits to be derived from such use outweighed the risk of possible cost to the Government.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715v of this title.

§ 1715z-7. Mortgage insurance for hospitals

[*See main edition for text of (a) and (b)*]

(c) Authorization to insure; prohibition of premiums on guarantees of principal and interest under title VII of the Public Health Service Act

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon. No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(d) Insurance of mortgages covering new or rehabilitated hospitals, including equipment; terms and conditions

In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated hospital, including equipment to be used in its operation, subject to the following conditions:

[*See main edition for text of (1) to (3)*]

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act [42 U.S.C. 291d(a)(1) or 300m] for the State in which is located the hospital covered by the mortgage, a certification that (A) there is a need for such hospital, and (B) there are in force in such State or the political subdivision of the State in which the proposed hospital would be located reasonable minimum standards of licensure and methods of operation for hospitals. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any hospital located in the State for which mortgage insurance is provided under this section.

[*See main edition for text of (e) to (h)*]

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, § 308, 91 Stat. 1135.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VII of the Public Health Service Act was added by act July 30, 1956, ch. 779, § 2, 70 Stat. 717, and is classified generally to subchapter V (§ 292 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-128, § 308(b), prohibited charging any mortgage insurance premium with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act.

Subsec. (d)(4). Pub. L. 95-128, § 308(a), inserted reference to section 1521.

§ 1715z-9. Co-insurance of eligible mortgage, advance, or loan

[*See main edition for text of (a) to (c)*]

(d) Termination date; aggregate principal amount of mortgages and loans authorized to be insured; applicability of overall percentage limitations

No mortgage, advance, or loan shall be insured pursuant to this section after September 30, 1978, except pursuant to a commitment to insure made before that date. The aggregate principal amount of mortgages and loans insured pursuant to this section in any fiscal year beginning on or after July 1, 1974, and ending prior to October 1, 1978, shall not exceed 20 per centum of the aggregate principal amount of all mortgages and loans insured under this subchapter during such fiscal year. The overall percentage limitation specified in the preceding sentence shall also apply separately within each of the following categories—

[*See main edition for text of (1) and (2); (e) to (g)*]

(As amended June 30, 1977, Pub. L. 95-60, § 1(d), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(d), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, § 301(f), 91 Stat. 1131.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977" and "October 1, 1978" for "October 1, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

§ 1715z-10. Graduated payment mortgages; criteria; principal obligation, limitation; termination date; State law interest prohibition inapplicable

The Secretary may insure under any provision of this subchapter mortgages and loans with provisions of varying rates of amortization corresponding to anticipated variations in family income to the extent he determines such mortgages or loans (1) have promise for expanding housing opportunities or meet special needs, (2) can be developed to include any safeguards for mortgagors or purchasers that may be necessary to offset special risks of such mortgages, and (3) have a potential for acceptance in the private market. Notwithstanding any other provision of this subchapter the principal obligation (including all interest to be deferred and added to principal) of a mortgage insured pursuant to this section may not exceed 97 per centum of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance, or if the mortgagor is a veteran and the mortgage is to be insured in accordance with the provisions of section 1709 of this title, such higher percentage of appraised value as is provided for purposes of determining the maximum mortgage amount eligible for insurance under section 1709(b)(2) of this title in the case of veterans. A mortgage or loan may not be insured pursuant to this section after September 30, 1978, except pursuant to a commitment entered into prior to such date. Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions.

(As amended Oct. 12, 1977, Pub. L. 95-128, title III, §§ 301(g), 310, 91 Stat. 1131, 1136.)

AMENDMENTS

1977—Pub. L. 95-128 extended termination date to Sept. 30, 1978, from Sept. 30, 1977; and deleted phrase "on an experimental basis" following "may insure", substituted provision respecting limitation of principal obligation for prior provision respecting limitation of outstanding aggregate principal amount of mortgages authorized, and made any State law interest limitation inapplicable to graduated mortgage provisions.

SUBCHAPTER III—NATIONAL MORTGAGE ASSOCIATIONS

§ 1717. Federal National Mortgage Association and Government National Mortgage Association

[*See main edition for text of* (*a*)]

(b) Purchase and sale of insured mortgages; purchase and sale of conventional mortgages

[*See main edition for text of* (*1*)]

(2) For the purposes set forth in section 1716(a) of this title, and with the approval of the Secretary of Housing and Urban Development, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as "conventional mortgages"). No such purchase of a conventional mortgage shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation which were originated more than one year prior to the date of purchase does not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it, but such limitations shall not exceed by more than 25 per centum the limitations contained in the first proviso of the first sentence of section 1464(c) of this title.

[*See main edition for text of* (*c*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title IV, § 408(a), 91 Stat. 1138.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-128 inserted in last sentence "by more than 25 per centum" following "exceed".

§ 1723a. General powers of Government National Mortgage Association and Federal National Mortgage Association

[*See main edition for text of (a) to (g)*]

(h) Regulatory power over Federal National Mortgage Association; approval for issuance of stock, obligations, securities, or other instruments; relation of mortgage purchases to national goal; audits; reports; review and study: transmittal to Congress

The Secretary of Housing and Urban Development shall have general regulatory power over the Federal National Mortgage Association and shall make such rules and regulations as shall be necessary and proper to insure that the purposes of this subchapter are accomplished. No stock, obligation, security, or other instrument shall be issued by the corporation without the prior approval of the Secretary. The Secretary may require that a reasonable portion of the corporation's mortgage purchases be related to the national goal of providing adequate housing for low and moderate income families, but with reasonable economic return to the corporation. The Secretary may examine and audit the books and financial transactions of the corporation, and he may require the corporation to make such reports on its activities as he deems advisable. Pursuant to the authority provided in this subsection, the Secretary shall conduct a review of the financial operations of the corporation and undertake a study of the extent to which the activities of the corporation meet the purposes of this subchapter. Such review and study shall be completed and transmitted to the Congress on or before July 1, 1978.

(As amended Oct. 12, 1977, Pub. L. 95-128, title IV, § 408(c), 91 Stat. 1138.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-128 inserted provision for review of the financial operations of the corporation and a study respecting how the activities of the corporation meet the purposes of this subchapter and transmittal of the review and study to the Congress.

§ 1723e. Interim mortgage purchasing authority of Association

(a) Finding of necessity and directive by Secretary; homeownership opportunities for moderate-income families; termination; financing housing in older or declining neighborhoods: regulations

(1) Whenever the Secretary finds inflationary conditions and related governmental actions or other economic conditions are having a severely disproportionate effect on the housing industry and the resulting reduction in the volume of home construction or acquisition threatens seriously to affect the economy and to delay the orderly achievement of the national housing goals contained in title XVI of the Housing and Urban Development Act of 1968, the Secretary shall direct the Association to begin making commitments to purchase and to purchase mortgages in accordance with the provisions of this section. To the extent feasible and consistent with the primary purpose of this section to stabilize housing production, the Secretary may direct the exercise of the authority conferred by this section to promote homeownership opportunities for moderate-income families.

[*See main edition for text of (2)*]

(3) In carrying out the authority conferred by this section, the Secretary may require the Association to utilize a part of the authority to purchase mortgages under this section for the purchase of mortgages executed to finance the rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods to the extent such action is feasible and consistent with the primary purpose of this section, and for the purpose of this paragraph, the Secretary is authorized to prescribe such regulations as may be appropriate.

(b) Implementation pursuant to directive; mortgages subject to commitments to purchase, service, and sale

Whenever the Secretary issues a directive under subsection (a)(1) of this section, the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, mortgages (1) which cover more than four-family residences (including cooperatives and condominiums and the individual units therein) and which are insured under this chapter and chapter 37 of title 38, or (2) which cover one- to four-family residences and which are insured under this chapter or guaranteed under chapter 37 of title 38 or by qualified private insurers as determined by the Association or the outstanding principal balances of which do not exceed 80 per centum of the value of the property securing the mortgages. A mortgage may be purchased under this section only if—

[*See main edition for text of (A)*]

(B) such mortgage involves an original principal obligation not to exceed $42,000 ($49,000 in the case of any property with respect to which assistance payments pursuant to section 1437f of title 42 are being or will be made and which is located in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require) per family residence or dwelling unit, and except that the original principal obligation may not exceed $55,000 in the case of properties in Alaska, Hawaii, and Guam;

[*See main edition for text of (C)*]

(D) such mortgage involves a principal residence the sales price of which does not exceed $48,000 ($52,000 in high-cost areas as determined by the Secretary and $55,000 in the case of any property with respect to which assistance payments pursuant to section 1437f of title 42 are being or will be made and which is located in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so re-

quire) per family residence or dwelling unit, except that such sales price in Alaska, Hawaii, and Guam may not exceed $65,000.

[*See main edition for text of* (c) *to* (*f*)]

(g) Limitation on amount of purchases and commitments

The total amount of purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed $7,750,000,000 outstanding at any one time. Such total amount shall be increased on or after July 2, 1975, by such amount as is approved in an appropriation Act, but not to exceed $10,000,000,000, and the Association shall not issue obligations pursuant to this section utilizing authority which is conferred by this sentence or which is conferred by the first sentence of this subsection but uncommitted on October 18, 1975, except as approved in appropriation Acts. The Association's purchases and commitments under this section during fiscal year 1978 may not exceed $7,500,000,000.

[*See main edition for text of* (*h*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title IV, § 407(a)-(d), 91 Stat. 1137, 1138.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, known as the National Housing Act. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-128, § 407(a), authorized the Secretary to promote homeownership opportunities for moderate-income families.

Subsec. (a)(3). Pub. L. 95-128, § 407(b), added par. (3).

Subsec. (b). Pub. L. 95-128, § 407(c), inserted parenthetical text respecting purchase of mortgages involving an original principal obligation not exceeding $49,000 in par. (B) and $55,000 in par. (D) where cost levels of the geographical area so require.

Subsec. (g). Pub. L. 95-128, § 407(d), added provision limiting the Association's purchases and commitments under this section during fiscal year 1978 to $7,500,000,000.

EFFECTIVE DATE

Section 3(b) of Pub. L. 93-449, as amended by Pub. L. 94-50, § 207, July 2, 1975, 89 Stat. 256; Pub. L. 94-375, § 13(d), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95-128, § 407(e), Oct. 12, 1977, 91 Stat. 1138, provided that: "The amendment made by subsection (a) [enacting this section] becomes effective upon the date of enactment of this Act [Oct. 18, 1974] and shall remain in effect until October 1, 1978 except that it shall remain in effect after such date to the extent necessary (1) to honor commitments to purchase mortgages issued prior to such date, and (2) to provide for the liquidation of assets and discharge of liabilities acquired or incurred prior to such date."

SUBCHAPTER IV—INSURANCE OF SAVINGS AND LOAN ACCOUNTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2902 of this title.

§ 1724. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425a, 1425b, 1470, 1727, 1728, 1832, 2902 of this title; title 15 section 80a-6; title 18 section 2113; title 26 section 7701; title 31 section 1052.

§ 1725. Creation of Federal Savings and Loan Insurance Corporation

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Financial operations

For the purposes of this subchapter, the Corporation shall have power to borrow money, and to issue notes, bonds, debentures, or other such obligations upon such terms and conditions as the Federal Home Loan Bank Board may determine. Moneys of the Corporation not required for current operations shall be deposited in the Treasury of the United States, or upon the approval of the Secretary of the Treasury, in any Federal Reserve bank, or shall be invested in obligations of, or guaranteed as to principal and interest by, the United States. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public money under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal agent of the United States, and it shall perform all such reasonable duties as depositary of public money and fiscal agent as may be required of it. Insured institutions shall be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in such insured institutions, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

[*See main edition for text of* (*e*) *to* (*j*)]

(As amended Oct. 28, 1977, Pub. L. 95-147, § 2(b), 91 Stat. 1227.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-147 provided that insured institutions be depositaries of public money, authorized insured institutions to be employed as fiscal agents of the United States, authorized the Secretary of the Treasury to deposit public money in such insured institutions, and required certain duties to be performed by each insured institution in its capacity as a depositary or fiscal agent.

§ 1730. Termination of insurance and enforcement provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425, 1425a, 1727, 2804 of this title; title 15 sections 1607, 1691c, 1692*l*.

§ 1730a. Regulation of holding companies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1725, 2902 of this title; title 15 section 18a.

SUBCHAPTER V—MISCELLANEOUS

§ 1735c. General Insurance Fund

[*See main edition for text of (a) to (e)*]

(f) Authorization of appropriations

There are authorized to be appropriated to cover losses sustained by the General Insurance Fund not to exceed $1,341,000,000.

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 102, 91 Stat. 55.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-24 substituted "$1,341,000,000" for "$500,000,000".

SUBCHAPTER VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1702, 1715f, 1715h, 1717, 1720, 1731a, 1743 of this title; title 42 sections 1594, 1594a, 1594e, 1594f; title 50 App. section 1216.

§ 1748h-1. Civilian employees of armed services

[*See main edition for text of (a) to (e)*]

(f) Provisions of subchapter applicable; termination date

The provisions of sections 1748, 1748a, 1748b(c), 1748b(i), 1748b(j), 1748c(a), 1748c(b), and 1748f of this title and the provisions of section 1748b(a) of this title relating to the aggregate amount of all mortgages insured under this subchapter, shall be applicable to mortgages insured under this section. No more mortgages shall be insured under this section after September 30, 1978, except pursuant to a commitment to insure before such date.

[*See main edition for text of (g)*]

(As amended June 30, 1977, Pub. L. 95-60, § 1(e), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(e), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, § 301(h), 91 Stat. 1131.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

§ 1748h-2. Insurance of mortgages for defense housing for impacted areas

[*See main edition for text of (a) to (j)*]

(k) Aggregate amount of mortgages insured; termination date

The provisions of sections 1748, 1748a, 1748b(c), 1748b(i), 1748b(j), 1748c(a), 1748c(b), and 1748f of this title and the provisions of section 1748b(a) of this title relating to the aggregate amount of all mortgages insured under this subchapter shall be applicable to mortgages insured under this section. No more mortgages shall be insured under this section after September 30, 1978, except pursuant to a commitment to insure before such date.

(As amended June 30, 1977, Pub. L. 95-60, § 1(f), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(f), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, § 301(i), 91 Stat. 1131.)

AMENDMENTS

1977—Subsec. (k). Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

SUBCHAPTER IX-A—MORTGAGE INSURANCE FOR LAND DEVELOPMENT AND NEW COMMUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1464, 1702, 1715c, 1715h, 1717, 1731a, 1735f of this title; title 38 section 1804; title 42 section 5307.

§ 1749bb. Insurance of mortgages

(a) Authorization; termination date

The Secretary is authorized (1) to insure, upon such terms and conditions as he may prescribe, any first mortgage (including advances on such mortgage) in accordance with the provisions of this subchapter, and (2) to make a commitment for the insurance of such mortgage prior to the date of execution of such mortgage or prior to the date of disbursement of the mortgage proceeds. No mortgage shall be insured under this subchapter after September 30, 1978, except pursuant to a commitment to insure issued before such date.

[*See main edition for text of (b) to (e)*]

(As amended June 30, 1977, Pub. L. 95-60, § 1(g), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(g), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, § 301(j), 91 Stat. 1131.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

SUBCHAPTER IX-B—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES AND MEDICAL PRACTICE FACILITIES

§ 1749aaa. Insurance of mortgages

(a) Authority of Secretary; termination date

The Secretary is authorized (1) to insure mortgages (including advances on such mortgages during construction), upon such terms and conditions as he may prescribe, in accordance with the provisions of this subchapter, and (2) to make commitments for the insuring

of such mortgages prior to the date of their execution or disbursement thereon. No mortgage shall be insured under this subchapter after September 30, 1978, except pursuant to a commitment to insure issued before that date.

[*See main edition for text of* (b) *to* (f)]

(As amended June 30, 1977, Pub. L. 95-60, § 1(h), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, § 1(h), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, § 301(k), 91 Stat. 1131.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

SUBCHAPTER IX-C—NATIONAL INSURANCE DEVELOPMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1735d of this title; title 42 sections 1452b, 1466.

§ 1749bbb. Program authority; termination date; report to the Congress

[*See main edition for text of* (a)]

(b)(1) The powers of the Secretary under this subchapter shall terminate on September 30, 1978, except to the extent necessary—

(A) to continue reinsurance and direct insurance in accordance with the provisions of sections 1749bbb-9(b) and 1749bbb-10a(c) of this title until September 30, 1981;

[*See main edition for text of* (B) *and* (C)]

(2) On September 30, 1978, or as soon thereafter as possible, the Secretary shall submit to the Congress, for its approval, a plan for the liquidation and termination of the reinsurance and direct insurance programs.

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 104(a), 91 Stat. 55.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-24, § 104(a)(1), (2), substituted in provisions preceding subpar. (A) "September 30, 1978" for "April 30, 1977" and in subpar. (A) "September 30, 1981" for "April 30, 1978".

Subsec. (b)(2). Pub. L. 95-24, § 104(a)(3), substituted "September 30, 1978" for "April 30, 1978".

PART B—REINSURANCE COVERAGE

§ 1749bbb-8. Reinsurance agreements and premiums

[*See main edition for text of* (a) *to* (c)]

(d) Expiration date of contracts, etc.

Any contract, agreement, treaty, or other arrangement for reinsurance under this section shall be for a term expiring on April 30, 1969, and on April 30 each year thereafter, except that such term shall expire on September 30, beginning in either calendar year 1977 or 1978, as determined by the Secretary.

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 104(b), 91 Stat. 56.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-24 added exception that such term shall expire on Sept. 30, beginning in either calendar year 1977 or 1978, as determined by the Secretary.

SUBCHAPTER X—NATIONAL DEFENSE HOUSING INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1702, 1715f, 1731a, 1743 of this title; title 10 section 2678; title 42 sections 1591, 1591a, 1591c.

CHAPTER 14—FEDERAL CREDIT UNIONS

SUBCHAPTER II—SHARE INSURANCE

Sec.
1789a. Credit unions as depositaries of public money; fiscal agents; duties [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2804 of this title; title 15 sections 1607, 1681s, 1691c, 1692l; title 18 section 709.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1752. Definitions

As used in this chapter—

[*See main edition for text of* (1) *to* (3)]

(4)[1] The terms "member account" and "account" (when referring to the account of a member of a credit union) mean a share, share certificate, or share deposit account of a member of a credit union of a type approved by the Administrator which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member, and, in the case of a credit union serving predominantly low-income members (as defined by the Administrator), such terms (when referring to the account of a nonmember served by such credit union) mean a share, share certificate, or share deposit account of such nonmember which is of a type approved by the Administrator and evidences money or its equivalent received or held by such credit union in the usual course of business and for which it has given or is obligated to give credit to the account of such nonmember, and such terms mean those accounts of nonmember credit unions and nonmember units of Federal, State, or local governments and political subdivisions thereof in which payments are received by a credit union pursuant to section 1757(6) of this title;

[*See main edition for text of* (5) *to* (8)]

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 308, 91 Stat. 52.)

AMENDMENTS

1977—Par. (4). Pub. L. 95-22 added provision that such terms mean those accounts of nonmember credit

[1] Definitions of terms "member account" and "account" were added as par. (4) notwithstanding the existence of a par. (4) defining the term "Board".

unions and nonmember units of Federal, State, or local governments and political subdivisions thereof in which payments are received by a credit union pursuant to section 1757(6) of this title.

§ 1757. Powers

A Federal credit union shall have succession in its corporate name during its existence and shall have power—

[*See main edition for text of (1) to (4)*]

(5) to make loans, the maturities of which shall not exceed twelve years except as otherwise provided herein, and extend lines of credit to its members, to other credit unions, and to credit union organizations and to participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) Loans to members shall be made in conformity with criteria established by the board of directors: *Provided,* That—

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member, the sales price of which is not more than 150 per centum of the median sales price of residential real property situated in the geographical area (as determined by the board of directors) in which the property is located, and which is secured by a first lien upon such dwelling, may have a maturity not exceeding thirty years, subject to the rules and regulations of the Administrator;

(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home to be used by the credit union member as his residence, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed fifteen years unless such loan is insured or guaranteed as provided in subparagraph (iii);

(iii) a loan secured by the insurance or guarantee of the Federal Government, of a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares, be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser be approved by the board of directors when such loans standing alone or when added to any outstanding loan or loans of the guarantor or endorser exceeds $5,000;

(vi) the rate of interest not exceed 1 per centum per month on the unpaid balance inclusive of all service charges;

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this paragraph, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back from the credit union taking or receiving the same, in an action in the nature of an action of debt, the entire amount of interest paid; but such action must be commenced within two years from the time the usurious collection was made;

(viii) a borrower may repay his loan, prior to maturity in whole or in part on any business day without penalty;

(ix) loans shall be paid or amortized in accordance with rules and regulations prescribed by the Administrator after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit unions, and such other factors as the Administrator deems relevant.

(B) A self-replenishing line of credit to a borrower may be established to a stated maximum amount on certain terms and conditions which may be different from the terms and conditions established for another borrower.

(C) Loans to other credit unions shall be approved by the board of directors.

(D) Loans to credit union organizations shall be approved by the board of directors and shall not exceed 1 per centum of the paid-in and unimpaired capital and surplus of the credit union. A credit union organization means any organization as determined by the Administrator, which is established primarily to serve the needs of its member credit unions, and whose business relates to the daily operations of the credit unions they serve.

(E) Participation loans with other credit unions, credit union organizations, or financial organizations shall be in accordance with written policies of the board of directors: *Provided,* That a credit union which originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least 10 per centum of the face amount of the loan.

(6) to receive from its members, from other credit unions, from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 1787 of this title and in the manner so prescribed, and from nonmembers in the case of credit unions serving predominately low-income members (as defined by the Administrator)

payments on shares which may be issued at varying dividend rates, and payments on share certificates which may be issued at varying dividend rates and maturities, subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Administrator.

(7) to invest its funds (A) in loans exclusively to members; (B) in obligations of the United States of America, or securities fully guaranteed as to principal and interest thereby; (C) in accordance with rules and regulations prescribed by the Administrator, in loans to other credit unions in the total amount not exceeding 25 per centum of its paid-in and unimpaired capital and surplus; (D) in shares or accounts of savings and loan associations or mutual savings banks, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation; (E) in obligations issued by banks for cooperatives, Federal land banks, Federal intermediate credit banks, Federal home loan banks, the Federal Home Loan Bank Board, or any corporation designated in section 846 of title 31 as a wholly owned Government corporation; or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title; or in obligations or other instruments or securities of the Student Loan Marketing Association; (F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more Government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee; (G) in shares or deposits of any central credit union in which such investments are specifically authorized by the board of directors of the Federal credit union making the investment; and (H) in shares, share certificates, or share deposits of federally insured credit unions; (I) in the shares, stocks, or obligations of any other organization, providing services which are associated with the routine operations of credit unions, up to 1 per centum of the total paid in and unimpaired capital and surplus of the credit union with the approval of the Administrator: *Provided, however,* That such authority does not include the power to acquire control directly or indirectly, of another financial institution, nor invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility or any other similar organization, corporation, or association, except as otherwise expressly provided by this chapter;

(8) to make deposits in national banks and in State banks, trust companies, and mutual savings banks operating in accordance with the laws of the State in which the Federal credit union does business, and for Federal credit unions or credit unions authorized by the Department of Defense operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories, subject to such regulations as may be issued by the Administrator and provided such banks are correspondents of banks described in this paragraph;

(9) to borrow, in accordance with such rules and regulations as may be prescribed by the Administrator, from any source, in an aggregate amount not exceeding 50 per centum of its paid-in and unimpaired capital and surplus: *Provided,* That any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital;

(10) to levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the Federal credit union;

(11) to impress and enforce a lien upon the shares and dividends of any member, to the extent of any loan made to him and any dues or charges payable by him;

(12) in accordance with rules and regulations prescribed by the Administrator, to sell to members negotiable checks (including travelers checks) and money orders, and to cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing such service;

(13) in accordance with rules and regulations prescribed by the Administrator, to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Administrator) of its members and to purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union;

(14) to sell all or a part of its assets to another credit union, to purchase all or part of the assets of another credit union and to assume the liabilities of the selling credit union and those of its members subject to regulations of the Administrator;

(15) to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, §§ 302, 303, 91 Stat. 49, 51.)

AMENDMENTS

1977—Par. (5). Pub. L. 95-22, § 302(a), among other changes, added provisions permitting Federal credit unions to establish lines of credit for their members, to raise the maximum loan maturity for most loans to twelve years, and to make loans secured by a first lien and made for the purchase of a one-to-four family residential dwelling for the principal residence of a credit union member.

Par. (6). Pub. L. 95-22, §§ 302(b), 303(a), redesignated former par. (7) as (6), and as so redesignated, substituted reference to payments on shares which may be issued at varying dividend rates and payments on share certificates which may be issued at varying dividend rates and maturities, subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Administrator for reference to payments on shares, share certificates, or share deposits. Former par. (6), relating to the power of Federal credit unions to make loans to its own directors and to its own supervisory credit committee, was struck out.

Par. (7). Pub. L. 95-22, § 303(b), redesignated former par. (8) as (7), and as so redesignated, added subpar. (I). Former par. (7) redesignated (6).

Pars. (8) to (12). Pub. L. 95-22, § 303(c), redesignated former pars. (9) to (13) as (8) to (12), respectively. Former par. (8) redesignated (7).

Par. (13). Pub. L. 95-22, § 303(c), (d), redesignated former par. (14) as (13), and as so redesignated, inserted reference to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Administrator) of its members. Former par. (13) redesignated (12).

Par. (14). Pub. L. 95-22, § 303(e), added par. (14).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1761c of this title.

§ 1761b. Board of directors; meetings; powers and duties; executive committee; membership officers; membership application

The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the corporation. Minutes of all such meetings shall be kept. Among other things they shall act upon applications for membership; require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union; fill vacancies in the board and in the credit committee until successors elected at the next annual meeting have qualified; have charge of investments other than loans to members, except that the board may designate a committee of not less than two to act as an investment committee, such investment committee to have charge of making investments under rules and procedures established by the board of directors; determine from time to time the maximum number of shares and share certificates and the classes of shares and share certificates that may he held; subject to the limitations of this chapter, determine the interest rates on loans, the security, and the maximum amount which may be loaned or provided in lines of credit; subject to such regulations as may be issued by the Administrator, authorized an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by them during that dividend period; and provide for compensation of necessary clerical and auditing assistance requested by the supervisory committee, and of loan officers appointed by the credit committee. The board may appoint an executive committee of not less than three directors to exercise such authority as may be delegated to it subject to such conditions and limitations as may be prescribed by the board. Such executive committee or one or more membership officers appointed by the board from among the members of the credit union, other than the treasurer, an assistant treasurer, or a loan officer, may be authorized by the board to approve applications for membership under such conditions as the board may prescribe; except that such committee or membership officer so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. If a membership application is denied, the reasons therefor shall be furnished in writing to the person whose application is denied, upon written request.

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 309, 91 Stat. 53.)

AMENDMENTS

1977—Pub. L. 95-22 substituted "and share certificates and the classes of shares and share certificates that may be held" for "that may be held by an individual" and ", the security, and the maximum amount which may be loaned or provided in lines of credit" for "and the maximum amount which may be loaned with or without security to any member".

§ 1761c. Credit committee; meetings; powers and duties; loan limits; security

The credit committee shall hold such meetings as the business of the Federal credit union may require and not less frequently than once a month to consider applications for loans and lines of credit. Reasonable notice of such meetings shall be given to all members of the committee. Except for those loans or lines of credit required to be approved by the board of directors in section 1757(5) of this title, approval of an application shall be by a majority of the entire committee and by all members of the committee who are present at the meeting at which the application is considered; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans and lines of credit. Each loan officer shall furnish to the credit committee a record of each application approved or not approved by him within seven days of the date of the filing of the application therefor. All applications not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the Federal credit union with respect to any loan or line of credit for which the application

has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Applications for loans and lines of credit shall be made on forms prepared by such committee, which shall set forth the security, if any, and such other data as may be required. No loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's unimpaired capital and surplus. For the purposes of this section an assignment of shares or the endorsement of a note shall be deemed security and, subject to such regulations as the Administrator may prescribe, insurance obtained under title I of the National Housing Act [12 U.S.C. 1702 et seq.] shall be deemed adequate security.

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 304, 91 Stat. 51.)

AMENDMENTS

1977—Pub. L. 95-22 substituted "loans and lines of credit" for "loans" in three places, "Except for those loans or lines of credit required to be approved by the board of directors in section 1757(5) of this title, approval of an application shall be" for "No loan shall be made unless it is approved", "application approved" for "loan approved", "applications not approved" for "loans not approved", and "with respect to any loan or line of credit for which the application" for "for any loan which" and struck out "the purpose for which the loan is desired" following "which shall set forth", "$200 or" following "amount which would exceed", "whichever is greater" following "capital and surplus", and provision relating to requirement that no unsecured loan be made to a member which would make the member indebted to the Federal credit union in excess of a specified amount.

§ 1762. Reserves

(a) At the end of each accounting period the gross income shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed under this chapter, sums in accordance with the following schedule:

(1) A credit union in operation for more than four years and having assets of $500,000 or more shall set aside (A) 10 per centum of gross income until the regular reserve shall equal 4 per centum of the total of outstanding loans and risk assets, then (B) 5 per centum of gross income until the regular reserve shall equal 6 per centum of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four years or having assets of less than $500,000 shall set aside (A) 10 per centum of gross income until the regular reserve shall equal 7½ per centum of the total of outstanding loans and risk assets, then (B) 5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets.

(3) Whenever the regular reserve falls below the stated per centum of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(b) The Administrator may decrease the reserve requirement set forth in subsection (a) of this section when in his opinion such a decrease is necessary or desirable. The Administrator may also require special reserves to protect the interests of members either by regulation or for an individual credit union in any special case.

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 305, 91 Stat. 52.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-22 substituted "At the end of each accounting period the gross income shall be determined" for "Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined", reduced the impact of existing regular reserve requirement by limiting their applicability to credit unions in operation for less than four years or having assets of less than $500,000, and added regular reserve requirements relating to credit unions in operation for more than four years and having assets of $500,000 or more.

Subsec. (b). Pub. L. 95-22 added provision permitting Administrator to decrease the reserve requirement set forth in subsec. (a) of this section when in his opinion such a decrease is necessary or desirable.

§ 1763. Dividends

At such intervals as the board of directors may authorize, and after provision for required reserves, the board may declare, pursuant to such regulations as may be issued by the Administrator, a dividend to be paid at different rates on different types of shares and at different rates and maturity dates in the case of share certificates. Dividend credit may be accrued on various types of shares and share certificates as authorized by the board of directors.

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 310, 91 Stat. 53.)

AMENDMENTS

1977—Pub. L. 95-22 substituted "the board may declare, pursuant to such regulations as may be issued by the Administrator, a dividend to be paid at different rates on different types of shares and at different rates and maturity dates in the case of share certificates" for "the board of directors may declare a dividend to be paid from the remaining net earnings" and "accrued on various types of shares and share certificates" for "accrued on shares" and struck out provision that such dividends shall be paid on all paid-up shares outstanding at the end of the period for which the dividend is declared and provision that shares which become fully paid up during such dividend period and are outstanding at the close of the period shall be entitled to a proportional part of such dividend.

§ 1766. Certain powers of Administrator and Administration personnel

[*See main edition for text of* (a)]

(b) [*See main edition for text of* (1) *and* (2)]

(3) Such liquidating agent shall have power and authority, subject to the control and supervision of the Administrator and under such rules and regulations as the Administrator may

prescribe, (A) to receive and take possession of the books, records, assets, and property of every description of the Federal credit union in liquidation, to sell, enforce collection of, and liquidate all such assets and property, to compound all bad or doubtful debts, and to sue in his own name or in the name of the Federal credit union in liquidation, and defend such actions as may be brought against him as liquidating agent or against the Federal credit union; (B) to receive, examine, and pass upon all claims against the Federal credit union in liquidation, including claims of members on member accounts; (C) to make distribution and payment to creditors and members as their interests may appear; and (D) to execute such documents and papers and to do such other acts and things which he may deem necessary or desirable to discharge his duties hereunder.

[*See main edition for text of (4) and (5); (c) to (i)*]

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 306, 91 Stat. 52.)

AMENDMENTS

1977—Subsec. (b)(3)(B). Pub. L. 95-22 substituted "member accounts" for "shares".

SUBCHAPTER II—SHARE INSURANCE

§ 1781. Insurance of member accounts

[*See main edition for text of (a) and (b)*]

(c) Approval of application

[*See main edition for text of (1) and (2)*]

(3) Repealed. Pub. L. 95-22, title III, § 301, Apr. 19, 1977, 91 Stat. 49.

[*See main edition for text of (d) and (e)*]

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 301, 91 Stat. 49.)

AMENDMENTS

1977—Subsec. (c)(3). Pub. L. 95-22 struck out subsec. (c)(3) which provided for approval by Administrator of applications of State credit unions for insurance of its member accounts where credit union meets requirements of this chapter and where in the event of liquidation of the credit union, the claims with respect to demand deposit accounts shall be subordinate to the claims with respect to member accounts.

§ 1786. Termination of insured credit union status; cease and desist orders; removal or suspension from office; procedure

[*See main edition for text of (a) to (f)*]

(g) Removal of director, officer, or committee member; notice; hearing; judicial review

(1) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer, or committee member and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, the Administrator may serve upon such director, officer, or committee member a written notice of his intention to remove him from office.

(2) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty or unfitness to continue as a director, officer, or committee member, and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty or unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, committee member, or other person a written notice of his intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such credit union.

[*See main edition for text of (3) to (5); (h) to (o)*]

(As amended Apr. 19, 1977, Pub. L. 95-22, title III, § 307, 91 Stat. 52.)

AMENDMENTS

1977—Subsec. (g)(1). Pub. L. 95-22, § 307(a), struck out "and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer, or committee member" following "or breach of fiduciary duty".

Subsec. (g)(2). Pub. L. 95-22, § 307(b), substituted "dishonesty or unfitness" for "dishonesty and unfitness" wherever appearing.

§ 1789a. Credit unions as depositaries of public money; fiscal agents; duties

Any credit union the accounts of which are insured under this title shall be a depositary of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositaries of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositaries of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

(June 26, 1934, ch. 750, title II, § 210, as added Oct. 28, 1977, Pub. L. 95-147, § 2(c)(1), 91 Stat. 1227.)

PRIOR PROVISIONS

A prior section 210 of act June 26, 1934, relating to nondiscriminatory provisions, enacted section 1790 of this title, and was redesignated 211 by § 2(c)(2) of Pub. L. 95-147.

§ 1790. Nondiscriminatory provisions

CODIFICATION

Section 210 of act June 26, 1934, ch. 750, was redesignated 211 by Pub. L. 95-147, § 2(c)(2), Oct. 28, 1977, 91 Stat. 1228.

CHAPTER 16—FEDERAL DEPOSIT INSURANCE CORPORATION

§ 1813. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 265, 1817, 1832, 1842, 2804, 2902 of this title; title 29 section 1134; title 31 section 1052.

§ 1818. Termination of status as insured bank

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375a, 1831b, 2804, 2805 of this title; title 15 sections 57a, 78o-4, 78q-1, 1607, 1681s, 1691c, 1692*l*.

§ 1828. Regulations governing insured banks

EFFECTIVE AND TERMINATION DATES OF 1969 AMENDMENT

Amendment of subsec. (g) of this section by the addition of three sentences at the end thereof under section 2(a) of Pub. L. 91-151 to be effective only through Dec. 15, 1978, with such three sentences to be repealed effective Dec. 15, 1978, see section 7(3) of Pub. L. 89-597, as amended, set out as an Effective and Termination Dates of 1966 Amendment note under section 461 of this title.

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Amendment of the 2nd and 3rd sentences of subsec. (g) of this section by section 3 of Pub. L. 89-597 effective only through December 15, 1978, and, effective December 15, 1978, such sentences further amended to read as they would without the amendment made by section 3 of Pub. L. 89-597, see section 7(2) of Pub. L. 89-597, as amended, set out as an Effective and Termination Dates of 1966 Amendment note under section 461 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2902 of this title; title 15 section 18a.

CHAPTER 17—BANK HOLDING COMPANIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 304, 371c, 1818 of this title; title 15 section 80b-2; title 26 sections 311, 1101, 1103, 6158.

§ 1841. Definitions

(a) [*See main edition for text of (1) to (4)*]

(5) Notwithstanding any other provision of this subsection—

[*See main edition for text of (A) to (C)*]

(D) No company is a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition. The Board is authorized upon application by a company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.

[*See main edition for text of (E) and (F), (6); (b) to (i)*]

(As amended Nov. 16, 1977, Pub. L. 95-188, title III, § 301(b), 91 Stat. 1389.)

AMENDMENTS

1977—Subsec. (a)(5)(D). Pub. L. 95-188 authorized the Board to extend the time for disposition of acquired shares for not more than one year at a time and three years in the aggregate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1842, 1843, 1971 of this title; title 15 section 78c; title 26 sections 1101, 1103.

§ 1842. Acquisition of bank shares or assets

(a) Prior approval of Board as necessary; exceptions; disposition, time extension; subsequent approval or disposition upon disapproval

It shall be unlawful, except with the prior approval of the Board, (1) for any action to be taken that causes any company to become a bank holding company; (2) for any action to be taken that causes a bank to become a subsidiary of a bank holding company; (3) for any bank holding company to acquire direct or indirect ownership or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than 5 per centum of the voting shares of such bank; (4) for any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank; or (5) for any bank holding company to merge or consolidate with any other bank holding company. Notwithstanding the foregoing this prohibition shall not apply to (A) shares acquired by a bank, (i) in good faith in a fiduciary capacity, except where such shares are held under a trust that constitutes a company as defined in section 1841(b) of this title and except as provided in paragraphs (2) and (3) of section 1841(g) of this title, or (ii) in the regular course of securing or collecting a debt previously contracted in good faith, but any shares acquired after May 9, 1956, in securing or collecting any such previously contracted debt shall be disposed of within a period of two years from the date on which they were acquired; or (B) additional shares acquired by a bank holding company in a bank in which such bank

holding company owned or controlled a majority of the voting shares prior to such acquisition. The Board is authorized upon application by a bank to extend, from time to time for not more than one year at a time, the two-year period referred to above for disposing of any shares acquired by a bank in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years. For the purpose of the preceding sentence, bank shares acquired after December 31, 1970, shall not be deemed to have been acquired in good faith in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto, but in such instances acquisitions may be made without prior approval of the Board if the Board, upon application filed within ninety days after the shares are acquired, approves retention or, if retention is disapproved, the acquiring bank disposes of the shares or its sole discretionary voting rights within two years after issuance of the order of disapproval.

(b) Application for approval; notice to Comptroller of Currency or State authority; views and recommendations; disapproval; hearings; order of Board; nonaction deemed grant of application; procedure in emergencies or probable failures requiring immediate Board action and orders

Upon receiving from a company any application for approval under this section, the Board shall give notice to the Comptroller of the Currency, if the applicant company or any bank the voting shares or assets of which are sought to be required is a national banking association or a District bank, or to the appropriate supervisory authority of the interested State, if the applicant company or any bank the voting shares or assets of which are sought to be acquired is a State bank, in order to provide for the submission of the views and recommendations of the Comptroller of the Currency or the State supervisory authority, as the case may be. The views and recommendations shall be submitted within thirty calendar days of the date on which notice is given, or within ten calendar days of such date if the Board advises the Comptroller of the Currency or the State supervisory authority that an emergency exists requiring expeditious action. If the thirty-day notice period applies and if the Comptroller of the Currency or the State supervisory authority so notified by the Board disapproves the application in writing within this period, the Board shall forthwith give written notice of that fact to the applicant. Within three days after giving such notice to the applicant, the Board shall notify in writing the applicant and the disapproving authority of the date for commencement of a hearing by it on such application. Any such hearing shall be commenced not less than ten nor more than thirty days after the Board has given written notice to the applicant of the action of the disapproving authority. The length of any such hearing shall be determined by the Board, but it shall afford all interested parties a reasonable opportunity to testify at such hearing. At the conclusion thereof, the Board shall, by order, grant or deny the application on the basis of the record made at such hearing. In the event of the failure of the Board to act on any application for approval under this section within the ninety-one-day period which begins on the date of submission to the Board of the complete record on that application, the application shall be deemed to have been granted. Notwithstanding any other provision of this subsection, if the Board finds that it must act immediately on any application for approval under this section in order to prevent the probable failure of a bank or bank holding company involved in a proposed acquisition, merger, or consolidation transaction, the Board may dispense with the notice requirements of this subsection, and if notice is given, the Board may request that the views and recommendations of the Comptroller of the Currency or the State supervisory authority, as the case may be, be submitted immediately in any form or by any means acceptable to the Board. If the Board has found pursuant to this subsection either that an emergency exists requiring expeditious action or that it must act immediately to prevent probable failure, the Board may grant or deny any such application without a hearing notwithstanding any recommended disapproval by the appropriate supervisory authority.

[*See main edition for text of* (c) *to* (e)]

(As amended Nov. 16, 1977, Pub. L. 95-188, title III, §§ 301(a), 302, 91 Stat. 1388, 1389.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-188, § 301(a), authorized the Board to extend the time for disposition of acquired shares for not more than one year at a time and three years in the aggregate.

Subsec. (b). Pub. L. 95-188, § 302, inserted provision for alternative submission of views and recommendations within ten calendar days of the date on which notice is given if the Board advises the appropriate supervisory authority that an emergency exists requiring expeditious action, substituted "shall, by order," for "shall by order" and added provisions respecting procedure in emergencies or probable failures requiring immediate Board action and orders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1849, 1850, 2902 of this title; title 15 section 18a.

§ 1843. Interests in nonbanking organizations

[*See main edition for text of* (a) *and* (b)]

(c) Exemptions

The prohibitions in this section shall not apply to any bank holding company which is (i) a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of title 26, or (ii) a company covered in 1970 more than 85 per centum of the voting stock of which was collectively owned on June 30, 1968, and continuously thereafter, directly or indirectly, by or for members of the same family, or their spouses, who are lineal descendants of common ancestors; and such prohibi-

tions shall not, with respect to any other bank holding company, apply to—

[*See main edition for text of (1)*]

(2) shares acquired by a bank holding company or any of its subsidiaries in satisfaction of a debt previously contracted in good faith, but such shares shall be disposed of within a period of two years from the date on which they were acquired, except that the Board is authorized upon application by such bank holding company to extend such period of two years from time to time as to such holding company for not more than one year at a time if, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall extend beyond a date five years after the date on which such shares were acquired;

[*See main edition for text of (3) to (13); (d) and (e)*]

(As amended Nov. 16, 1977, Pub. L. 95-188, title III, § 301(c), 91 Stat. 1389.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-188 substituted "shares acquired by a bank holding company or any of its subsidiaries in satisfaction of a debt previously contracted in good faith, but such shares shall be disposed of within a period of two years" for "shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371c, 1841, 1850 of this title; title 15 section 18a; title 26 sections 1101, 1103, 6158.

§ 1849. Saving provision

[*See main edition for text of (a)*]

(b) Antitrust proceedings; stay of approval by Board; review de novo; judicial standards; limitations; exemptions

The Board shall immediately notify the Attorney General of any approval by it pursuant to section 1842 of this title of a proposed acquisition, merger, or consolidation transaction. If the Board has found that it must act immediately in order to prevent the probable failure of a bank or bank holding company involved in any such transaction, the transaction may be consummated immediately upon approval by the Board. If the Board has advised the Comptroller of the Currency or the State supervisory authority, as the case may be, of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within ten days, the transaction may not be consummated before the fifth calendar day after the date of approval by the Board. In all other cases, the transaction may not be consummated before the thirtieth calendar day after the date of approval by the Board. Any action brought under the antitrust laws arising out of an acquisition, merger, or consolidation transaction approved under section 1842 of this title shall be commenced prior to the earliest time under this subsection at which the transaction approval under section 1842 of this title might be consummated. The commencement of such an action shall stay the effectiveness of the Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. In any judicial proceeding attacking any acquisition, merger, or consolidation transaction approved pursuant to section 1842 of this title on the ground that such transaction alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, the standards applied by the court shall be identical with those that the Board is directed to apply under section 1842 of this title. Upon the consummation of an acquisition, merger, or consolidation transaction approved under section 1842 of this title in compliance with this chapter and after the termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced therein, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, but nothing in this chapter shall exempt any bank holding company involved in such a transaction from complying with the antitrust laws after the consummation of such transaction.

[*See main edition for text of (c) to (f)*]

(As amended Nov. 16, 1977, Pub. L. 95-188, title III, § 303, 91 Stat. 1390.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-188 authorized a proposed acquisition, merger, or consolidation transaction to be consummated immediately upon approval by the Board where the Board has found that it must act immediately in order to prevent the probable failure of a bank or bank holding company involved in any such transaction; prohibited a transaction from being consummated before the fifth calendar day after the date of approval by the Board where the Board has advised the Comptroller of the Currency or the State supervisory authority, as the case may be, of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within ten days; continued for all other cases the thirty day waiting period after date of approval by the Board for consummation of the transaction; and substituted provision for commencement of stay actions prior to the earliest time at which the transaction approval under section 1842 of this title might be consummated for prior provision for commencement of such stay actions within the thirty-day waiting period.

CHAPTER 20—CREDIT CONTROL

§ 1904. Credit controls

COUNCIL ON WAGE AND PRICE STABILITY

Pub. L. 93-387, Aug. 24, 1974, 88 Stat. 750, as amended by Pub. L. 93-449, § 4(e), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 94-78, §§ 2(a), 3 to 7, Aug. 9, 1975, 89 Stat. 411,

412; Pub. L. 95-121, §§ 1 to 6, Oct. 6, 1977, 91 Stat. 1091, provided:

* * * * *

"SEC. 3. (a) The Council shall—

* * * * *

"(4) conduct public hearings necessary to provide for public scrutiny of inflationary problems in various sectors of the economy for the purpose of controlling inflation;

"(5) focus attention on the need to increase productivity in both the public and private sectors of the economy and focus attention on the need to move toward full employment;

* * * * *

"(7) review and appraise the various programs, policies, and activities of the departments and agencies of the United States for the purpose of determining the extent to which those programs and activities are contributing to inflation;

"(8) intervene and otherwise participate on its own behalf in rulemaking, ratemaking, licensing and other proceedings before any of the departments and agencies of the United States, in order to present its views as to the inflationary impact that might result from the possible outcomes of such proceedings; and

"(9) review information about and analyze the effects on the United States economy of—

"(A) the participation of the United States in international trade and commerce;

"(B) the changing patterns of supplies and prices of commodities in the world market;

"(C) the investment of United States capital in foreign countries;

"(D) short- and long-term weather changes in the world;

"(E) interest rates;

"(F) capital formation; and

"(G) the changing patterns of world energy supplies and prices.

* * * * *

"SEC. 4. (a) Any department or agency of the United States which collects, generates, or otherwise prepares or maintains data or information pertaining to the economy or any sector of the economy shall, upon the request of the Chairman of the Council, make that data or information available to the Council.

* * * * *

"(f)(1) Product line or other category information relating to an individual firm or person and obtained under section 2(g) or submitted voluntarily pursuant to a Council request and judged by the Council to be confidential information shall be considered as confidential financial information under section 552(b)(4) of title 5 of the United States Code. Neither the Director nor any member of the Council may permit anyone other than sworn officers, members, and employees of the Council to examine such data.

"(2) Periodic reports obtained by the Council under section 2(g) or submitted voluntarily pursuant to a Council request and copies thereof which are retained by the reporting firm or person shall be immune from legal process.

* * * * *

"SEC. 6. There is hereby authorized to be appropriated not to exceed $1,700,000 for each fiscal year ending prior to October 1, 1977, not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal year ending September 30, 1979, to carry out the purposes of this Act.

"SEC. 7. The authority granted by this Act terminates on September 30, 1979."

CHAPTER 30—COMMUNITY REINVESTMENT [NEW]

Sec.
2901. Congressional findings and statement of purpose.
2902. Definitions.
2903. Financial institutions; evaluation.
2904. Report to Congress.
2905. Regulations.

§ 2901. Congressional findings and statement of purpose

(a) The Congress finds that—

(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit services as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this chapter to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

(Pub. L. 95-128, title VIII, § 802, Oct. 12, 1977, 91 Stat. 1147.)

SHORT TITLE

Section 801 of Pub. L. 95-128 provided that: "This title [enacting this chapter] may be cited as the 'Community Reinvestment Act of 1977'."

§ 2902. Definitions

For the purposes of this chapter—

(1) the term "appropriate Federal financial supervisory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) the Federal Deposit Insurance Corporation with respect to State chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) the Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies;

(2) the term "regulated financial institution" means an insured bank as defined in section 1813 of this title or an insured institution as defined in section 401 of the National Housing Act [12 U.S.C. 1724]; and

(3) the term "application for a deposit facility" means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) a charter for a national bank or Federal savings and loan association;

(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association or similar institution;

(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) the relocation of the home office or a branch office of a regulated financial institution;

(E) the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under section 1828(c) of this title or under regulations issued under the authority of title IV of the National Housing Act [12 U.S.C. 1724 et seq.]; or

(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 1842 of this title or section 408(e) of the National Housing Act [12 U.S.C. 1730a(e)].

(Pub. L. 95-128, title VIII, § 803, Oct. 12, 1977, 91 Stat. 1147.)

REFERENCES IN TEXT

The National Housing Act, referred to in par. (3)(E), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title IV of the National Housing Act is classified generally to subchapter IV (§ 1724 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

§ 2903. Financial institutions; evaluation

In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

(1) assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and

(2) take such record into account in its evaluation of an application for a deposit facility by such institution.

(Pub. L. 95-128, title VIII, § 804, Oct. 12, 1977, 91 Stat. 1148.)

§ 2904. Report to Congress

Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this chapter.

(Pub. L. 95-128, title VIII, § 805, Oct. 12, 1977, 91 Stat. 1148.)

§ 2905. Regulations

Regulations to carry out the purposes of this chapter shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after October 12, 1977.

(Pub. L. 95-128, title VIII, § 806, Oct. 12, 1977, 91 Stat. 1148.)

TITLE 13—CENSUS

This title was enacted by act Aug. 31, 1954, ch. 1158, 68 Stat. 1012

§ 9. Information as confidential; exception

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8, 23, 214 of this title; title 42 sections 1973aa-5, 2000f, 6274.

TITLE 14—COAST GUARD

This title was enacted by act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 495

PART I—REGULAR COAST GUARD

CHAPTER 5—FUNCTIONS AND POWERS

§ 92. Secretary; general powers

AIRCRAFT

Repeated by Pub. L. 95-85, title I, § 101, Aug. 2, 1977, 91 Stat. 402.

CHAPTER 7—COOPERATION WITH OTHER AGENCIES

§ 141. General

MEDICAL EMERGENCY HELICOPTER TRANSPORTATION SERVICES TO CIVILIANS; AUTHORIZATION TO COAST GUARD COMMANDANT

Pub. L. 95-61, § 8, July 1, 1977, 91 Stat. 260, provided that:

"(a) The Commandant of the Coast Guard is authorized to assist the Department of Health, Education, and Welfare, in providing medical emergency helicopter transportation services to civilians. Any resources provided under this section shall be under such terms and conditions, including reimbursement, as the Commandant of the Coast Guard deems appropriate and shall be subject to the following specific limitations:

"(1) Assistance may be provided only in areas where the Coast Guard units able to provide such assistance are regularly assigned, and Coast Guard units shall not be transferred from one area to another for the purpose of providing such assistance.

"(2) Assistance may be provided only to the extent that it does not interfere with the performance of the Coast Guard mission.

"(3) The provision of assistance shall not cause any increase in funds required for the operation of the Coast Guard.

"(b) No individual (or his estate) who is authorized by the Coast Guard to perform services under a program established pursuant to subsection (a), and who is acting within the scope of his duties, shall be liable for injury to, or loss of property or personal injury or death which may be caused incident to providing such services."

CHAPTER 17—ADMINISTRATION

Sec.
659. Merger of obligated balances with current appropriations.

AMENDMENTS

1977—Pub. L. 95-61, § 4(2), July 1, 1977, 91 Stat. 260, added item 659.

§ 659. Merger of obligated balances with current appropriations

Amounts equal to the obligated balances against appropriations for "Operating expenses" and for "Reserve training", for the two fiscal years preceding the current fiscal year, shall be transferred to and merged with current fiscal year appropriations for "Operating expenses" and "Reserve training", respectively. The obligated balances for the period commencing on July 1, 1976, and ending on September 30, 1976, may be merged into the respective accounts for fiscal years 1977 and 1978. Such merged appropriations shall be available as one fund, for the payment of obligations properly incurred against such prior year appropriations and against the current fiscal year appropriations. Coast Guard accounting shall reflect year identity of the merged obligated balances until such obligated balances are transferred to a consolidated account as prescribed in section 1 of the Act of July 25, 1956, as amended (31 U.S.C. 701).

(Added Pub. L. 95-61, § 4(1), July 1, 1977, 91 Stat. 259.)

TITLE 15—COMMERCE AND TRADE

CHAPTER 1—MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE

Ex. Ord. No. 12022. National Commission for the Review of Antitrust Laws and Procedures

Ex. Ord. No. 12022, Dec. 1, 1977, 42 F.R. 61441, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is hereby established the National Commission for the Review of Antitrust Laws and Procedures, hereafter referred to as the Commission.

(b) The Commission shall consist of fifteen members to be appointed by the President and shall include:

(1) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

(2) The Chairman of the Federal Trade Commission.

(3) The Chairman of one other appropriate independent regulatory agency.

(4) Three members of the Senate recommended by the President of the Senate.

(5) Three members of the House of Representatives recommended by the Speaker of the House of Representatives.

(6) One judge of a United States District Court.

(7) Five persons from the private sector.

(c) The President shall designate a Chairman or Co-chairmen from among the members of the Commission.

Sec. 2. *Functions of the Commission.* (a) The Commission shall, within the framework of existing antitrust laws (as that term is defined in 15 U.S.C. 12), study and make recommendations on the following subjects:

(1) Revision of procedural and substantive rules of law needed to expedite the resolution of complex antitrust cases and development of proposals for making the remedies available in such cases more effective, including:

(i) creation of a roster of district court judges knowledgeable regarding antitrust law and large-case problems to whom such cases may be assigned;

(ii) revision of pleading requirements in order to narrow as quickly and precisely as possible the scope of contested issues of fact and law;

(iii) revision of discovery practices in order to limit expensive and time-consuming inquiry into areas not germane to contested issues;

(iv) the desirability of a grant of judicial authority to restrict and penalize dilatory practices through control of issue formulation and imposition of sanctions for unnecessary delays or failures to cooperate;

(v) amendment of evidentiary practices to expedite introduction of testimony and exhibits at trial;

(vi) simplification of the standards required to establish attempted monopolization in suits brought by the United States under Section 2 of the Sherman Act [15 U.S.C. 2];

(vii) consideration of structural relief for antitrust violations, and of nonjudicial alternatives for resolution of complex antitrust issues; and

(2) the desirability of retaining the various exemptions and immunities from the antitrust laws, including exemptions for regulated industries and exemptions created by State laws that inhibit competition.

(b) The Commission shall conclude its work not later than six months from the date the last member is appointed and shall submit a final report to the President and the Attorney General within thirty days thereafter. The Commission shall terminate thirty days after submitting its final report.

Sec. 3. *Administrative Matters.* (a) The Commission may request any Federal agency to furnish it with such information, advice, and services as may be useful for carrying out its functions under this Order.

(b) The Department of Justice shall furnish to the Commission a staff director and any necessary staff, supplies, facilities and other administrative services. Such funds as are necessary for ordinary operations of the Commission, to the extent permitted by law, shall be provided from the appropriations available to the Department of Justice.

(c) The Commission may procure, subject to the availability of funds, the temporary professional services of individuals to assist in its work, in accordance with the provisions of Section 3109 of Title 5 of the United States Code.

(d) Members of the Commission shall receive no compensation from the United States by virtue of their service on the Commission but shall be entitled to receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

(e) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Commission shall be performed by the Attorney General in accordance with guidelines and procedures established by the Office of Management and Budget.

Jimmy Carter.

Antitrust Acts and Laws Defined in Other Sections

Antitrust acts and laws are defined in sections 12, 44, 1311 of this title; title 10 section 7430; title 12 sections 1828, 1849; title 28 sections 1407; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 5417, 5909, 6202; title 43 section 1770; title 45 section 791; title 49 sections 5b, 5c, 1384; title 50 App. sections 1941a, 2158.

§ 1. Trusts, etc., in restraint of trade illegal; penalty

Sherman Act Referred to in Other Sections

The Sherman Act [15 U.S.C. 1 to 7] is referred to in sections 12, 15c, 15d, 28, 29, 30, 31, 62, 1012, 1013 of this title; title 7 section 225; title 8 section 1251; title 10 section 7430; title 12 sections 1828, 1849; title 26 section 311; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 2135, 5417, 5909, 6202;

title 43 sections 970, 1770; title 45 section 791; title 46 section 814; title 49 sections 5c, 44, 45; title 50 App. sections 1941a, 2158.

§ 2. Monopolizing trade a felony; penalty

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 18a of this title; title 12 section 1849.

§ 8. Trusts in restraint of trade illegal; penalty

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9, 11 of this title; title 10 section 7430; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 5417, 5909, 6202; title 43 section 1770; title 45 section 791; title 49 section 5c; title 50 App. sections 1941a, 2158.

§ 9. Jurisdiction of courts; duty of United States attorneys; procedure

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10 of this title; title 10 section 7430; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 5417, 5909, 6202; title 43 section 1770; title 45 section 791; title 49 section 5c; title 50 App. sections 1941a, 2158.

§ 12. Words defined; short title

CLAYTON ACT REFERRED TO IN OTHER SECTIONS

The Clayton Act [see References in Text note to this section] is referred to in sections 1012, 1013 of this title; title 7 section 225; title 10 section 7430; title 12 sections 1828, 1849; title 26 section 311; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 2135, 5417, 5909, 6202; title 43 section 1770; title 45 section 791; title 49 section 5c; title 50 App. sections 1941a, 2158.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1291, 1311 of this title; title 19 section 2033; title 46 section 885; title 49 sections 5b, 1384.

§ 13. Discrimination in price, services, or facilities

SHORT TITLE

Act June 19, 1936, which amended this section and added sections 13a, 13b, and 21a of this title, is popularly known as the Robinson-Patman Anti-Discrimination Act and also as the Robinson-Patman Price Discrimination Act.

ROBINSON-PATMAN ANIT-DISCRIMINATION ACT REFERRED TO IN OTHER SECTIONS

The Robinson-Patman Anti-Discrimination Act [15 U.S.C. 13 to 13b, 21a] is referred to in sections 13b, 13c, 21a, 1013 of this title; title 42 sections 5909, 6202; title 45 section 791; title 49 section 5c; title 50 App. section 2158.

§ 16. Judgments

(a) Prima facie evidence

A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 15a of this title, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided,* That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under section 15a of this title.

[*See main edition for text of* (*b*) *to* (*i*)]

CODIFICATION

Subsec. (a) is set out in this supplement to correct typographical error in the main edition.

§ 18. Acquisition by one corporation of stock of another

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 2—FEDERAL TRADE COMMISSION; PROMOTION OF EXPORT TRADE AND PREVENTION OF UNFAIR METHODS OF COMPETITION

SUBCHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 18a, 64, 65, 68, 68a, 68c, 68d, 68e, 68f, 68g, 69, 69a, 69d, 69f, 69g, 69h, 70a, 70c, 70d, 70e, 70f, 70g, 70h, 636, 638, 640, 1012, 1013, 1192, 1194, 1291, 1460, 1607, 1681s, 1691c, 1692*l*, 1802, 2006, 2079, 2101, 2103, 2106, 2311 of this title; title 10 section 7430; title 19 section 2485; title 21 section 378; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 2135, 5417, 5909, 6202, 6294, 6325; title 43 section 1770; title 45 section 791; title 49 section 5c; title 50 App. sections 1941a, 2158.

§ 49. Documentary evidence; depositions; witnesses

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 756 of this title; title 7 sections 222, 610, 2046, 2146; title 21 sections 467d, 677, 1051; title 26 section 5274; title 27 section 202; title 29 sections 177, 209, 308, 521, 1134; title 33 section 944; title 42 section 7255; title 50 App. section 1983.

CHAPTER 2A—SECURITIES AND TRUST INDENTURES

SUBCHAPTER I—DOMESTIC SECURITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 77ccc, 77ddd, 77fff, 77ggg, 77hhh, 77vvv, 77www, 77zzz, 78m, 78o, 78o-3, 78s, 78u, 79p, 79t, 79u, 80a-2, 80a-8, 80a-9, 80a-14, 80a-24, 80a-34, 80a-37, 80a-49, 80b-2, 80b-3 of this title; title 11 section 205; title 25 section 646; title 43 section 1625; title 45 sections 830, 854; title 49 section 20b.

§ 77d. Exempted transactions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80a-24 of this title; title 11 section 205; title 49 section 20b.

§ 77e. Prohibitions relating to interstate commerce and the mails

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 77b to 77d, 77j, 77*l*, 77ddd, 80a-24 of this title; title 11 sections 664, 793, 918; title 45 section 791.

CHAPTER 2B—SECURITIES EXCHANGES

Sec.
78dd-1. Foreign corrupt practices by issuers [New].
(a) Prohibited practices.
(b) Definition.
78dd-2. Foreign corrupt practices by domestic concerns [New].
(a) Prohibited practices.
(b) Penalties.
(c) Civil action by Attorney General to prevent violations.
(d) Definitions.

§ 78a. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-213, title I, § 101, Dec. 19, 1977, 91 Stat. 1494, provided that: "This title [enacting sections 78dd-1 and 78dd-2 of this title and amending sections 78m and 78ff of this title] may be cited as the 'Foreign Corrupt Practices Act of 1977'."

Pub. L. 95-213, title II, § 201, Dec. 19, 1977, 91 Stat. 1498, provided that: "This title [amending sections 78m and 78*o* of this title] may be cited as the 'Domestic and Foreign Investment Improved Disclosure Act of 1977'."

§ 78*l*. Registration requirements for securities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 78d-1, 78k-1, 78*l*-1, 78m, 78n, 78*o*, 78p, 78q-1, 78dd-1, 78hh, 78hh-1 of this title; title 16 section 824c.

§ 78m. Periodical and other reports

[*See main edition for text of* (*a*)]

(b) Form of report; books, records, and internal accounting; directives

(1) The Commission may prescribe, in regard to reports made pursuant to this chapter, the form or forms in which the required information shall be set forth, the items or details to be shown in the balance sheet and the earning statement, and the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of separate and/or consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but in the case of the reports of any person whose methods of accounting are prescribed under the provisions of any law of the United States, or any rule or regulation thereunder, the rules and regulations of the Commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation in respect of the same subject matter (except that such rules and regulations of the Commission may be inconsistent with such requirements to the extent that the Commission determines that the public interest or the protection of investors so requires).

(2) Every issuer which has a class of securities registered pursuant to section 78*l* of this title and every issuer which is required to file reports pursuant to section 78*o*(d) of this title shall—

(A) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

(B) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—

(i) transactions are executed in accordance with management's general or specific authorization;

(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets;

(iii) access to assets is permitted only in accordance with management's general or specific authorization; and

(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(3)(A) With respect to matters concerning the national security of the United States, no duty or liability under paragraph (2) of this subsection shall be imposed upon any person acting in cooperation with the head of any Federal department or agency responsible for such matters if such act in cooperation with such head of a department or agency was done upon the specific, written directive of the head of such department or agency pursuant to Presidential authority to issue such directives. Each directive issued under this paragraph shall set forth the specific facts and circumstances with respect to which the provisions of this paragraph are to be invoked. Each such directive shall, unless renewed in writing, expire one year after the date of issuance.

(B) Each head of a Federal department or agency of the United States who issues a directive pursuant to this paragraph shall maintain a complete file of all such directives and shall, on October 1 of each year, transmit a summary of matters covered by such directives in force at any time during the previous year to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

[*See main edition for text of* (*c*)]

(d) Reports by persons acquiring more than five per centum of certain classes of securities

(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered

pursuant to section 78*l* of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 78*l*(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations, prescribe as necessary or appropriate in the public interest or for the protection of investors—

(A) the background, and identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 78c(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and citizenship of each such associate; and

(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

[See main edition for text of (2) to (6); (e) and (f)]

(g) Statement of equity security ownership

(1) Any person who is directly or indirectly the beneficial owner of more than 5 per centum of any security of a class described in subsection (d)(1) of this section shall send to the issuer of the security and shall file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe—

(A) such person's identity, residence, and citizenship; and

(B) the number and description of the shares in which such person has an interest and the nature of such interest.

(2) If any material change occurs in the facts set forth in the statement sent to the issuer and filed with the Commission, an amendment shall be transmitted to the issuer and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate in the public interest or for the protection of investors (A) to achieve centralized reporting of information regarding ownership, (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report, and (C) to tabulate and promptly make available the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State agencies and the public.

(6) The Commission may, by rule or order, exempt, in whole or in part, any person or class of persons from any or all of the reporting requirements of this subsection as it deems necessary or appropriate in the public interest or for the protection of investors.

(h) Report to Congress

The Commission shall report to the Congress within thirty months of December 19, 1977, with respect to (1) the effectiveness of the ownership reporting requirements contained in this chapter, and (2) the desirability and the feasibility of reducing or otherwise modifying the 5 per centum threshold used in subsections (d)(1) and (g)(1) of this section, giving appropriate consideration to—

(A) the incidence of avoidance of reporting by beneficial owners using multiple holders of record;

(B) the cost of compliance to persons required to report;

(C) the cost to issuers and others of processing and disseminating the reported information;

(D) the effect of such action on the securities markets, including the system for the clearance and settlement of securities transactions;

(E) the benefits to investors and to the public;

(F) any bona fide interests of individuals in the privacy of their financial affairs;

(G) the extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to subsection (d) of this section and section 78n(d) of this title;

(H) the need for such information in connection with the administration and enforcement of this chapter; and

(I) such other matters as the Commission may deem relevant, including the information obtained pursuant to subsection (f) of this section.

(As amended Dec. 19, 1977, Pub. L. 95-213, title I, § 102, title II, §§ 202, 203, 91 Stat. 1494, 1498, 1499.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (h), was in the original "this title". See References in Text note set out under section 78a of this title.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-213, § 102, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (d)(1). Pub. L. 95-213, § 202, added references to the residence and citizenship of persons and to the nature of the beneficial ownership of persons in subpar. (A), and added references to background, identity, residence, and citizenship of associates of persons in subpar. (D).

Subsecs. (g), (h). Pub. L. 95-213, § 203, added subsecs. (g) and (h).

§ 78o. Registration and regulation of brokers and dealers

[*See main edition for text of* (a) *to* (c)]

(d) Filing of supplementary and periodic information

Each issuer which has filed a registration statement containing an undertaking which is or becomes operative under this subsection as in effect prior to August 20, 1964, and each issuer which shall after such date file a registration statement which has become effective pursuant to the Securities Act of 1933, as amended [15 U.S.C. 77a et seq.], shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 78m of this title in respect of a security registered pursuant to section 78*l* of this title. The duty to file under this subsection shall be automatically suspended if and so long as any issue of securities of such issuer is registered pursuant to section 78*l* of this title. The duty to file under this subsection shall also be automatically suspended as to any fiscal year, other than the fiscal year within which such registration statement became effective, if, at the beginning of such fiscal year, the securities of each class to which the registration statement relates are held of record by less than three hundred persons. For the purposes of this subsection, the term "class" shall be construed to include all securities of an issuer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges. The Commission may, for the purpose of this subsection, define by rules and regulations the term "held of record" as it deems necessary or appropriate in the public interest or for the protection of investors in order to prevent circumvention of the provisions of this subsection. Nothing in this subsection shall apply to securities issued by a foreign government or political subdivision thereof.

[*See main edition for text of* (e)]

(As amended Dec. 19, 1977, Pub. L. 95-213, title II, § 204, 91 Stat. 1500.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-213 authorized the Commission to define, for purposes of this subsection, the term "held of record".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 77nnn, 78c, 78*l*, 78m, 78o-1, 78o-2, 78o-4, 78r, 78s, 78u, 78y, 78cc, 78dd-1, 78ff, 78hh, 78hh-1, 78ccc, 78*III*, 80a-8, 80a-22, 80a-29, 80a-35, 773 of this title.

§ 78dd-1. Foreign corrupt practices by issuers

(a) Prohibited practices

It shall be unlawful for any issuer which has a class of securities registered pursuant to section 78*l* of this title or which is required to file reports under section 78o(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

(1) any foreign official for purposes of—

(A) influencing any act or decision of such foreign official in his official capacity, including a decision to fail to perform his official functions; or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

(A) influencing any act or decision of such party, official, or candidate in its or his official capacity, including a decision to fail to perform its or his official functions; or

(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

(A) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or

(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

(b) Definition

As used in this section, the term "foreign official" means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.

(June 6, 1934, ch. 404, title I, § 30A, as added Dec. 19, 1977, Pub. L. 95-213, title I, § 103(a), 91 Stat. 1495.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 78dd-2, 78ff of this title.

§ 78dd-2. Foreign corrupt practices by domestic concerns

(a) Prohibited practices

It shall be unlawful for any domestic concern, other than an issuer which is subject to section 78dd-1 of this title, or any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

(1) any foreign official for purposes of—

(A) influencing any act or decision of such foreign official in his official capacity, including a decision to fail to perform his official functions; or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

(A) influencing any act or decision of such party, official, or candidate in its or his official capacity, including a decision to fail to perform its or his official functions; or

(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

(A) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or

(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person.

(b) Penalties

(1)(A) Except as provided in subparagraph (B), any domestic concern which violates subsection (a) of this section shall, upon conviction, be fined not more than $1,000,000.

(B) Any individual who is a domestic concern and who willfully violates subsection (a) of this section shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(2) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) of this section shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(3) Whenever a domestic concern is found to have violated subsection (a) of this section, any employee or agent of such domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, stockholder, employee, or agent of a domestic concern, such fine shall not be paid, directly or indirectly, by such domestic concern.

(c) Civil action by Attorney General to prevent violations

Whenever it appears to the Attorney General that any domestic concern, or officer, director, employee, agent, or stockholder thereof, is engaged, or is about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing a permanent or temporary injunction or a temporary restraining order shall be granted without bond.

(d) Definitions

As used in this section:

(1) The term "domestic concern" means (A) any individual who is a citizen, national, or resident of the United States; or (B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

(2) The term "foreign official" means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.

(3) The term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof. Such term includes the intrastate use of (A) a telephone or other interstate means of communication, or (B) any other interstate instrumentality.

(Pub. L. 95-213, title I, § 104, Dec. 19, 1977, 91 Stat. 1496.)

CODIFICATION

Section was enacted as part of Pub. L. 95-213, the Foreign Corrupt Practices Act of 1977, and not as part of act June 6, 1934, ch. 404, 48 Stat. 881, the Securities Exchange Act of 1934, which comprises this chapter.

§ 78ff. Penalties

(a) Willful violations; false and misleading statements

Any person who willfully violates any provision of this chapter (other than section 78dd-1 of this title), or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this chapter, or any person who willfully and knowingly makes, or causes to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement as provided in subsection (d) of section 78o of this title, or by any self-regulatory organization in connection with an application for membership or participation therein or to become associated with a member thereof which statement was false or misleading with respect to any material fact, shall upon conviction be fined not more than $10,000, or imprisoned not more than five years, or both, except that when such person is an exchange, a fine not exceeding $500,000 may be imposed; but no person shall be subject to imprisonment under this section for the violation of any rule or regulation if he proves that he had no knowledge of such rule or regulation.

(b) Failure to file information, documents, or reports

Any issuer which fails to file information, documents, or reports required to be filed under subsection (d) of section 78o of this title or any rule or regulation thereunder shall forfeit to the United States the sum of $100 for each and every day such failure to file shall continue. Such forfeiture, which shall be in lieu of any criminal penalty for such failure to file which might be deemed to arise under subsection (a) of this section, shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States.

(c) Violations by issuers, officers, directors, stockholders, employees, or agents of issuers

(1) Any issuer which violates section 78dd-1(a) of this title shall, upon conviction, be fined not more than $1,000,000.

(2) Any officer or director of an issuer, or any stockholder acting on behalf of such issuer, who willfully violates section 78dd-1(a) of this title shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(3) Whenever an issuer is found to have violated section 78dd-1(a) of this title, any employee or agent of such issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder of such issuer), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more

than $10,000, or imprisoned not more than five years, or both.

(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, stockholder, employee, or agent of an issuer, such fine shall not be paid, directly or indirectly, by such issuer.

(As amended Dec. 19, 1977, Pub. L. 95-213, title I, § 103(b), 91 Stat. 1496.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-213, § 103(b)(1), added "(other than section 78dd-1 of this title)" following "Any person who willfully violates any provision of this chapter".

Subsec. (c). Pub. L. 95-213, § 103(b)(2), added subsec. (c).

§ 78kk. Authorization of appropriations

There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $51,000,000 for the fiscal year ending June 30, 1976, $56,500,000 for the fiscal year ending September 30, 1977, and $63,750,000 for the fiscal year ending September 30, 1978. For fiscal years succeeding fiscal year 1978, there may be appropriated such sums as the Congress may hereafter authorize by law.

(As amended Apr. 13, 1977, Pub. L. 95-20, 91 Stat. 47; Dec. 19, 1977, Pub. L. 95-211, 91 Stat. 1492.)

AMENDMENTS

1977—Pub. L. 95-211 authorized appropriations of not to exceed $63,750,000 for the fiscal year ending Sept. 30, 1978, and substituted "For the fiscal years succeeding fiscal year 1978" for "For fiscal years succeeding the 1977 fiscal year" in the provisions relating to appropriations for succeeding fiscal years.

Pub. L. 95-20 substituted "$56,500,000" for "$55,000,000".

CHAPTER 2C—PUBLIC UTILITY HOLDING COMPANIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 77ccc, 77hhh, 77jjj, 77kkk, 77www, 77zzz, 78u, 80a-2, 80a-3, 80a-37, 80a-49, 80b-2 of this title; title 16 section 825q; title 29 sections 306, 432.

§ 79*l*. Intercompany and other transactions relating to registered companies

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 2D—INVESTMENT COMPANIES AND ADVISERS

SUBCHAPTER I—INVESTMENT COMPANIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 77c, 78c, 78m, 78n, 78o, 78s, 78u, 80b-2, 80b-3, 80b-5, 687, 687b of this title; title 12 section 1843; title 26 sections 265, 851, 852, 856, 1246, 4975; title 29 sections 306, 432, 1001, 1002, 1101; title 43 section 1625.

CHAPTER 4—CHINA TRADE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 26 sections 246, 941, 942, 943, 992, 1504, 6072, 6091.

CHAPTER 5—THE BUREAU OF FOREIGN AND DOMESTIC COMMERCE

§ 176a. Confidential nature of information furnished Bureau

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 6274.

CHAPTER 7A—STANDARD REFERENCE DATA PROGRAM

§ 290e. United States copyright and renewal rights

(a) Notwithstanding the limitations contained in section 105 of title 17, the Secretary may secure copyright and renewal thereof on behalf of the United States as author or proprietor in all or any part of any standard reference data which he prepares or makes available under this chapter, and may authorize the reproduction and publication thereof by others.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 94-553, § 105(f), Oct. 19, 1976, 90 Stat. 2599.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-553 substituted "section 105 of title 17" for "section 8 of title 17".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

CHAPTER 14A—AID TO SMALL BUSINESS

§ 631. Declaration of policy

AUTHORIZATION OF APPROPRIATIONS

Section 2[20] of Pub. L. 85-536, as amended by Pub. L. 87-341, § 11(h)(2), Oct. 3, 1961, 75 Stat. 757; Pub. L. 95-89, title I, § 102, Aug. 4, 1977, 91 Stat. 553, provided that:

"(a) There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act [this chapter] other than those for which appropriations are specifically authorized.

"(b) The following program levels are authorized for fiscal year 1978:

"(1) For the programs authorized by section 7(a) of this Act [section 636(a) of this title], the Administration is authorized to make $400,000,000 in direct loans, $15,000,000 in immediate participation loans, and $3,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act [section 636(h) of this title], the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $20,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act [section 636(i) of this title], the Administration is authorized to make $60,000,000 in direct and

immediate participation loans and $81,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958 [sections 695 and 696 of this title], the Administration is authorized to make $45,000,000 in direct and immediate participation loans and $41,000,000 in guaranteed loans.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958 [subchapter III of chapter 14B of this title], the Administration is authorized to make $20,000,000 in direct purchase of debentures and preferred securities and to make $180,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958 [part B of subchapter IV-A of chapter 14B of this title], the Administration is authorized to enter into guarantees not to exceed $2,000,000,000.

"(7) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), and 7(g) of this Act [section 636(b)(3) to (9) and (g) of this title], the Administration is authorized to enter into $300,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958 [sections 694-1 and 694-2 of this title], the Administration is authorized to enter into guarantees not to exceed $150,000,000.

"(9) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, except for administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act [section 636(b)(1) and (2) of this title].

"(c) There are authorized to be appropriated to the Administration for fiscal year 1978, $1,400,000,000 to carry out the programs referred to in subsection (b), paragraphs (1) through (9). Of such sum, $47,100,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958 [section 694c of this title], $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958 [section 694 of this title], and $171,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $13,000,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act [section 637(a) of this title];

"(2) $32,000,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers and development of an effective small business technology transfer program;

"(3) $6,000,000 shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major small business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government and of which no more than $60,000 can be used for the payment of travel and transportation of persons for the national, regional, and Small Business Investment Companies advisory council meetings;

"(4) $4,000,000 shall be available for the office of minority small business; and

"(5) $3,900,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration.

"(d) The Administrator may transfer no more than 10 percent of program levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(c) of this Act [pars. (1) through (5) of subsec. (c) of this note]: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(e) The following program levels are authorized for fiscal year 1979:

"(1) For the programs authorized by section 7(a) of this Act [section 636(a) of this title], the Administration is authorized to make $440,000,000 in direct loans, $17,000,000 in immediate participation loans, and $3,300,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act [section 636(h) of this title], the Administration is authorized to make $33,000,000 in direct and immediate participation loans and $22,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act [section 636(i) of this title], the Administration is authorized to make $66,000,000 in direct and immediate participation loans and $89,000,000 in guaranteed loans.

"(4) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958 [sections 695 and 696 of this title], the Administration is authorized to make $49,000,000 in direct and immediate participation loans and $45,000,000 in guaranteed loans.

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958 [subchapter III of chapter 14B of this title], the Administration is authorized to make $22,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures.

"(6) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958 [part B of subchapter IV-A of chapter 14B of this title], the Administration is authorized to enter into guarantees not to exceed $2,200,000,000.

"(7) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), and 7(g) of this Act [section 636(b)(3) to (9) and (g) of this title], the Administration is authorized to enter into $330,000,000 in loans, guarantees, and other obligations or commitments.

"(8) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958 [sections 694-1 and 694-2 of this title], the Administration is authorized to enter into guarantees not to exceed $300,000,000.

"(9) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, except for administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act [section 636(b)(1) and (2) of this title].

"(f) There are authorized to be appropriated to the Administration for fiscal year 1979, $1,565,000,000 to carry out the programs referred to in subsection (e), paragraphs (1) through (9). Of such sum, $52,100,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958 [section 694c of this title], $4,400,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958 [section 694 of this title], and $188,000,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $14,300,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including

those under section 8(a) of this Act [section 637(a) of this title];

"(2) $35,200,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

"(3) $6,600,000 shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major small business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government and of which no more that [than] $66,000 can be used for the payment of travel and transportation of persons for the national, regional, and Small Business Investment Companies advisory council meetings;

"(4) $4,400,000 shall be available for the office of minority small business; and

"(5) $4,290,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration.

"(g) The Administrator may transfer no more than 10 percent of program levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(f) of this Act [pars. (1) through (5) of subsec. (f) of this note]: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 percent by any such transfers."

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 11625. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE

Ex. Ord. No. 11625, Oct. 13, 1971, 36 F.R. 19967, as amended by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

* * * * *

SEC. 2. [Revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

* * * * *

ADVISORY COUNCIL FOR MINORITY ENTERPRISE

For provisions relating to termination of, see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, set out as a note under section 14 of the Federal Advisory Committee Act, set out in the Appendix to Title 5, Government Organization and Employees.

§ 633. Small Business Administration

[See main edition for text of (a) and (b)]

(c) Revolving funds; disaster loan fund; business loan and investment fund; payments into funds; appropriations; reports to Congress; business-type budgets; interest on disbursements

(1) There are established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for financing functions performed under sections 634(e), 636(b)(1), 636(b)(2), 636(b)(3), 636(b)(4), 636(b)(5), 636(b)(6), 636(b)(7), 636(b)(8), 636(c)(2), and 636(g) of this title; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 636(a), 636(e), 636(h), 636(i), and 637(a) of this title, and titles III [15 U.S.C. 681 et seq.] and V [15 U.S.C. 695 et seq.] of the Small Business Investment Act of 1958.

(2) All repayments of loans and debentures, payments of interest and other receipts arising out of transactions heretofore or hereafter entered into by the Administration (A) pursuant to sections 634(e), 636(b)(1), 636(b)(2), 636(b)(3), 636(b)(4), 636(b)(5), 636(b)(6), 636(b)(7), 636(b)(8), 636(c)(2), and 636(g) of this title, shall be paid into a disaster loan fund; and (B) pursuant to sections 636(a), 636(e), 636(h), 636(i), and 637(a) of this title, and titles III [15 U.S.C. 681 et seq.] and V [15 U.S.C. 695 et seq.] of the Small Business Investment Act of 1958, shall be paid into the business loan and investment fund.

(3) Unexpended balances of appropriations made to the fund pursuant to this subsection, as in effect immediately prior to the effective date of this paragraph, shall be allocated, together with related assets and liabilities, to the funds established by paragraph (1) in such amounts as the Administrator shall determine.

(4) The Administration shall submit to the Committees on Appropriations, Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives, as soon as possible after the beginning of each calendar quarter, a full and complete report on the status of each of the funds established by paragraph (1). Business-type budgets for each of the funds established by paragraph (1) shall be prepared, transmitted to the Committees on Appropriations, the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives, and considered, and enacted in the manner prescribed by law (sections 847, 848, and 849 of title 31) for wholly owned Government corporations.

(5) The Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the outstanding cash disbursements from each of the funds established by paragraph (1) at rates determined by the Secretary of the Treasury, taking into consideration the current average yields on outstanding interest-bearing marketable public debt obligations of the United States

of comparable maturities as calculated for the month of September preceding such fiscal year.

[*See main edition for text of (d)*]

(As amended Pub. L. 95-14, §§ 1-3, Mar. 24, 1977, 91 Stat. 25; Pub. L. 95-89, title I, § 101(a)-(c), title II, §§ 201, 202, title III, § 304, title IV, § 401, Aug. 4, 1977, 91 Stat. 553, 557, 559.)

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-89, §§ 101(a), 304, 401(1), deleted end text from cls. (A) and (B) reading ", including administrative expenses in connection with such functions"; inserted in cl. (A) reference to section 634(e); and inserted in cl. (A) and deleted from cl. (B) reference to section 636(b)(3).

Subsec. (c)(2). Pub. L. 95-89, §§ 201, 304, 401(2), inserted in cl. (A) reference to section 636(g); inserted in cl. (A) reference to section 634(e); and inserted in cl. (A) and deleted from cl. (B) reference to section 636(b)(3).

Subsec. (c)(3). Pub. L. 95-89, § 101(b), deleted last sentence authorization of appropriations of capital for the funds in amounts necessary to carry out the functions of the Administration to remain available until expended.

Subsec. (c)(4). Pub. L. 95-89, §§ 101(c), 202, repealed provisions of par. (4) which limited the total amount of loans, guarantees, and other obligations, to be outstanding at any one time: under sections 636(a), (b)(3), (e), (h), (i) and 637(a) of this title to $7,400,000,000; under title III of the Small Business Investment Act of 1958 to $887,500,000; under title V of the Small Business Investment Act of 1958 to $525,000,000; and under section 636(i) of this title to $525,000,000; redesignated former par. (5) as (4) and substituted reference to submission of reports to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives for the prior reference the Committees on Banking and Currency of the Senate and House of Representatives; substituted reference to transmission of business-type budgets to the Committees on Appropriations, the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives for prior reference to such transmission to the Congress; and deleted the second sentence providing that if at the close of the preceding calendar quarter the aggregate amount outstanding or committed by the Administration in carrying out its functions under the sections or titles referred to in former par. (4) exceeded 75 per centum of the total amount authorized to be outstanding under such sections or titles, the Administration's report shall include its recommendations for such additional authority as it deems appropriate.

Pub. L. 95-14 substituted "$7,400,000,000" for "$6,000,000,000", "$525,000,000" for "$450,000,000", and "$887,500,000" for "$725,000,000".

Subsec. (c)(5). Pub. L. 95-89, § 202, redesignated former par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (c)(6). Pub. L. 95-89, § 202, redesignated former par. (6) as (5).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 106 of Pub. L. 95-89 provided that: "This title [amending sections 633, 636, 694, 694-2, and 694c of this title and provisions set out as a note under section 631 of this title] shall become effective on October 1, 1977."

§ 634. General powers

[*See main edition for text of (a) to (d)*]

(e) Undertaking or suspension of payment obligation; period; extension of maturity; repayment agreement; "required payments" defined

(1) Subject to the requirements and conditions contained in this subsection, upon application by a small business concern which is the recipient of a loan made under this chapter, the Administration may undertake the small business concern's obligation to make the required payments under such loan or may suspend such obligation if the loan was a direct loan made by the Administration. While such payments are being made by the Administration pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the small business concern.

(2) The Administration may undertake or suspend for a period of not to exceed 5 years any small business concern's obligation under this subsection only if—

(A) without such undertaking or suspension of the obligation, the small business concern would, in the sole discretion of the Administration, become insolvent or remain insolvent;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the sole discretion of the Administration, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Administration as provided by paragraph (4).

(3) Notwithstanding the provisions of sections 636(a)(4)(C) and 636(i)(1) of this title, the Administration may extend the maturity of any loan on which the Administration undertakes or suspends the obligation pursuant to this subsection for a corresponding period of time.

(4)(A) Prior to the undertaking or suspension by the Administration of any small business concern's obligation under this subsection, the Administration, consistent with the purposes sought to be achieved herein, shall require the small business concern to agree in writing to repay to it the aggregate amount of the payments which were required under the loan during the period for which such obligation was undertaken or suspended, either—

(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period, or

(ii) pursuant to a repayment schedule agreed upon by the Administration and the small business concern, or

(iii) by a combination of the payments described in clause (i) and clause (ii).

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A), the Administration shall, prior to the undertaking or suspension of the obligation, take such action, and require the small business concern to take such action as the Administration deems appropriate in the circumstances, including the provision of

such security as the Administration deems necessary or appropriate to insure that the rights and interests of the lender (Small Business Administration or participant) will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

(5) The term "required payments" with respect to any loan means payments of principal and interest under the loan.

(As amended Pub. L. 95-89, title III, § 303, Aug. 4, 1977, 91 Stat. 558.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-89 added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 633, 693 of this title.

§ 636. Additional powers

(a) Loans to small-business concerns; restrictions and limitations

The Administration is empowered to make loans to enable small-business concerns to finance plant construction, conversion, or expansion, including the acquisition of land; or to finance residential or commercial construction or rehabilitation for sale: *Provided, however,* That such loans shall not be used primarily for the acquisition of land; or to finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to supply such concerns with working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, or civilian production or as may be necessary to insure a well-balanced national economy; and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis. The foregoing powers shall be subject, however, to the following restrictions and limitations:

[*See main edition for text of (1) to (7)*]

(8) Repealed. Pub. L. 95-89, title I, § 101(d), Aug. 4, 1977, 91 Stat. 553.

(b) Disaster loans; term; suspension of principal and interest payments; rate of interest

The Administration also is empowered—

[*See main edition for text of (1)*]

(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to any small business concern located in an area affected by a disaster, if the Administration determines that the concern has suffered a substantial economic injury as a result of such disaster and if such disaster constitutes—

[*See main edition for text of (A)*]

(B) a natural disaster, as determined by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1961); or

(C) a disaster, as determined by the Administrator of the Small Business Administration pursuant to the Disaster Relief Act of 1970; or

(D) if no disaster declaration has been issued pursuant to subparagraph (A), (B), or (C), the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns (1) have suffered economic injury as a result of such disaster, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster stricken area. Upon receipt of such certification, the Administration may then make such loans as would have been available under this paragraph if a disaster declaration had been issued.

(E) Notwithstanding any other provision of law, the interest rate on the Administration's share of any loan made under this paragraph in connection with a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be 3 percent on the amount of such loan not exceeding $25,000.

(3) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a business, or in establishing a new business, if the Administration determines that such concern has suffered substantial economic injury as the result of its displacement by, or location in, adjacent to, or near, a program or project constructed by or with funds provided in whole or in part by the Federal Government or by a program or project by a State or local government or public service entity, providing such government or public service entity has the authority to exercise the right of eminent domain on such program or project; and the purpose of a loan made pursuant to such project or program may, in the discretion of the Administration, include the purchase or construction of other premises whether or not the borrower owned the premises occupied by the business; and

[*See main edition for text of (4)*]

(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law heretofore or hereafter enacted, any State law enacted in conformity therewith, or any regulation or order of a duly authorized, Fed-

eral, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided,* That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and

[*See main edition for text of* (6)]

(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation;

(8) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist, or refinance the existing indebtedness of, any small business concern seriously and adversely affected by a shortage of fuel, electrical energy, or energy-producing resources, or by a shortage of raw or processed materials resulting from such shortages, if the Administration determines that such concern has suffered or is likely to suffer substantial economic injury without assistance under this paragraph; and

(9) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary to assist, or refinance the existing indebtedness of, any small business concern located in an area of economic dislocation. The Governor of a State may certify to the Administration (A) that small business concerns within the State have suffered substantial economic injury as a result of an economic dislocation, and (B) that such concerns are in need of financial assistance which is not available on reasonable terms. For the purposes of this paragraph, economic dislocation includes extraordinary, severe, and temporary natural conditions or other economic dislocations as determined by the Administration. Such economic dislocations must be of such magnitude that without the benefit of loans provided hereunder a significant number of otherwise financially sound small businesses in the impacted regions or business sectors would either become insolvent or be unable to return quickly to their former level of operation. No loan made hereunder shall exceed $100,000, nor shall the proceeds thereof be used to reduce the exposure of any other lender. The Administration shall permit deferral of payment of principal and interests for one year on loans made hereunder.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding thirty years: *Provided,* That the Administrator may consent to a suspension in the payment of principal and interest charges on, and to an extension in the maturity of, the Federal share of any loan under this subsection for a period not to exceed five years, if (A) the borrower under such loan is a homeowner or a small business concern, (B) the loan was made to enable (i) such homeowner to repair or replace his home, or (ii) such concern to repair or replace plant or equipment which was damaged or destroyed as the result of a disaster meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection, and (C) the Administrator determines such action is necessary to avoid severe financial hardship: *Provided further,* That the provisions of paragraph (1) of subsection (c) of this section shall not be applicable to any such loan having a maturity in excess of twenty years. Notwithstanding the provisions of any other law, the interest rate on the Administration's share of any loan made under this subsection shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: *Provided, however,* That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement. Notwithstanding any other provision of law, the interest rate on the Administration's share of any loan made pursuant to paragraph (1) of this subsection to repair or replace a primary residence and/or replace or repair damaged or destroyed personal property, less the amount of compensation by insurance or otherwise, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be: 1 per centum on the amount of such loan not exceeding $10,000, and 3 per centum on the amount of such loan over $10,000 but not exceeding $40,000. The interest rate on the Administration's share of the first $250,000 of all other loans made pursuant to paragraph (1) of this subsection, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be 3 per centum. All repayments of principal on the Administration's share of any loan made under the above provi-

sions shall first be applied to reduce the principal sum of such loan which bears interest at the lower rates provided in this paragraph. The principal amount of any loan made pursuant to paragraph (1) in connection with a disaster which occurs on or after April 1, 1977, but prior to January 1, 1978, may be increased by such amount, but not more than $2,000, as the Administration determines to be reasonable in light of the amount and nature of loss, damage, or injury sustained in order to finance the installation of insulation in the property which was lost, damaged, or injured, if the uninsured, damaged portion of the property is 10 per centum or more of the market value of the property at the time of the disaster. Not later than June 1, 1978, the Administration shall prepare and transmit to the Select Committee on Small Business of the Senate, the Committee on Small Business of the House of Representatives, and the Committees of the Senate and House of Representatives having jurisdiction over measures relating to energy conservation, a report on its activities under this paragraph, including therein an evaluation of the effect of such activities on encouraging the installation of insulation in property which is repaired or replaced after a disaster which is subject to this paragraph, and its recommendations with respect to the continuation, modification, or termination of such activities.

[*See main edition for text of second to fourth unnumbered paragraphs; (c) to (f)*]

(g) Loans to small business concerns for water pollution control facilities

[*See main edition for text of (1) to (3)*]

(4) Repealed. Pub. L. 95-89, title I, § 101(e), Aug. 4, 1977, 91 Stat. 553.

[*See main edition for text of (h) to (k)*]

(As amended Pub. L. 95-89, title I, § 101(d), (e), title III, §§ 301, 302, title IV, §§ 402-405, Aug. 4, 1977, 91 Stat. 553, 558-560.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act (7 U.S.C. 1961), referred to in subsec. (b)(2)(B), was in the original the "Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)", Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 307, which was redesignated the Consolidated Farm and Rural Development Act by Pub. L. 92-419, § 101, Aug. 30, 1972, 86 Stat. 657. The Consolidated Farm and Rural Development Act is classified generally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Disaster Relief Act of 1970, referred to in subsec. (b)(2)(C), is Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744, as amended, which was classified principally to chapter 58 (§ 4401 et seq.) of Title 42, The Public Health and Welfare. The 1970 act was repealed in part by the Disaster Relief Act of 1974, Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42. Section 602(m) of the Disaster Relief Act of 1974 provided that a reference in any other law to repealed provisions of the Disaster Relief Act of 1970 shall be deemed to be a reference to the appropriate provision of the 1974 Act.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-89, § 301, authorized loans to finance residential or commercial construction or rehabilitation for sale, subject to restriction that such loans be not used primarily for the acquisition of land.

Subsec. (a)(8). Pub. L. 95-89, § 101(d), repealed par. (8) provisions which required the Administrator to make direct loans under subsec. (a) in an aggregate amount of not less than $400,000,000 during fiscal year ending June 30, 1975.

Subsec. (b)(2)(C) to (E). Pub. L. 95-89, § 403, added subpars. (C) to (E).

Subsec. (b)(3). Pub. L. 95-89, § 402, substituted "program or project constructed by or with funds provided in whole or in part by the Federal Government or by a program or project by a State or local government or public service entity, providing such government or public service entity has the authority to exercise the right of eminent domain on such program or project" for "federally aided urban renewal program or a highway project or any other construction constructed by or with funds provided in whole or in part by the Federal Government".

Subsec. (b)(5). Pub. L. 95-89, § 302, inserted "heretofore or hereafter enacted" following "any Federal law".

Subsec. (b)(9). Pub. L. 95-89, § 404, added par. (9).

Subsec. (b), foll. par. (9). Pub. L. 95-89, § 405, added provisions respecting interest rate on loans to repair or replace primary residence and/or replace or repair damaged or destroyed personal property, including installation of insulation in connection with any disaster occurring on or after April 1, 1977, and transmission of a report to congressinal committees respecting the activities under the provisions and the encouragement of such insulation installations.

Subsec. (g)(4). Pub. L. 95-89, § 101(e), repealed par. (4) provision which authorized appropriation of not to exceed $800,000,000 to the disaster fund solely for purpose of carrying out subsec. (g) loans to small business concerns for water pollution control facilities.

EFFECTIVE DATE OF 1977 AMENDMENT

Repeal of subsecs. (a)(8) and (g)(4) by section 101(d), (e) of Pub. L. 95-89 effective on Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as an Effective Date of 1977 Amendment note under section 633 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 631, 633, 634, 636a, 637, 644 of this title; title 7 sections 1964; title 19 section 2345; title 33 section 701n; title 42 section 3142-1.

§ 636a. Small business disaster loans

EFFECTIVE DATE

Section effective Apr. 1, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§§ 636b, 636c

EFFECTIVE DATE

Sections effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 636d. Disaster aid to major sources of employment

EFFECTIVE DATE

Section effective Aug. 1, 1969, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amend-

ment note under section 165 of Title 26, Internal Revenue Code.

§ 637. Additional powers

[*See main edition for text of (a)*]

(b) Procurement and property disposal powers; determination of small-business concerns

It shall also be the duty of the Administration and it is empowered, whenever it determines such action is necessary—

[*See main edition for text of (1) to (6)*]

(7)(A) To certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity, of any small business concern or group of such concerns to receive and perform a specific Government contract. A Government procurement officer or an officer engaged in the sale and disposal of Federal property may not, for any reason specified in the preceding sentence preclude any small business concern or group of such concerns from being awarded such contract without referring the matter for a final disposition to the Administration.

(B) If a Government procurement officer finds that an otherwise qualified small business concern may be ineligible due to the provisions of section 35(a) of title 41, he shall notify the Administration in writing of such finding. The Administration shall review such finding and shall either dismiss it and certify the small business concern to be an eligible Government contractor for a specific Government contract or if it concurs in the finding, forward the matter to the Secretary of Labor for final disposition, in which case the Administration may certify the small business concern only if the Secretary of Labor finds the small business concern not to be in violation.

(C) In any case in which a small business concern or group of such concerns has been certified by the Administration pursuant to (A) or (B) to be a responsible or eligible Government contractor as to a specific Government contract, the officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and shall let such Government contract to such concern or group of concerns without requiring it to meet any other requirement of responsibility or eligibility.

[*See main edition for text of (8) to (15); (c) to (e)*]

(As amended Pub. L. 95-89, title V, § 501, Aug. 4, 1977, 91 Stat. 561.)

AMENDMENTS

1977—Subsec. (b)(7). Pub. L. 95-89, in revising par. (7), incorporated existing introductory text in provisions designated subpar. (A) and substituted therein "with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity, of any small business concern or group of such concerns to receive and perform a specific Government contract" for "with respect to the competency, as to capacity and credit, of any small-business concern or group of such concerns to perform a specific Government contract"; added subpar. (B); and incorporated existing end text in provisions designated subpar. (C), substituting therein "certified by the Administration pursuant to (A) or (B) to be a responsible or eligible Government contractor as to a specific Government contract" for "certified by or under the authority of the Administration to be a competent Government contractor with respect to capacity and credit as to a specific Government contract" and "shall let" and "other requirement of responsibility or eligibility" for "are authorized to let" and "other requirement with respect to capacity and credit".

§ 639. Reporting requirements and agency cooperation

(a) Annual reports to President and Congressional officers and committees

The Administration shall, as soon as practicable each fiscal year make a comprehensive annual report to the President, the President of the Senate, the Senate Select Committee on Small Business, and the Speaker of the House of Representatives. Such report shall include a description of the state of small business in the Nation and the several States, and a description of the operations of the Administration under this chapter, including, but not limited to, the general lending, disaster relief, Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, and other functions under the jurisdiction of the Administration during the previous fiscal year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary or desirable to implement more effectively congressional policies and proposals, for establishing new or alternative programs. In addition, such report shall include the names of the business concerns to whom contracts are let and for whom financing is arranged by the Administration, together with the amounts involved. With respect to minority small business concerns, the report shall include the proportion of loans and other assistance under this chapter provided to such concerns, the goals of the Administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to minority small business concerns under this chapter.

(b) Report of expenditures in conduct of principal activities

The Administration shall make a report to the President, the President of the Senate, and the Speaker of the House of Representatives, to the Senate Select Committee on Small Business, and to the Committee on Small Business of the House of Representatives, as soon as practicable each fiscal year, showing as accurately as possible for each such period the amount of funds appropriated to it that it has expended in the conduct of each of its principal activities such as lending, procurement, con-

tracting, and providing technical and managerial aids.

(e) Surveys for determination of factors tending to injure small business; reports and recommendations

[See main edition for text of (1)]

(2) The Attorney General shall submit to the Congress, the Senate Select Committee on Small Business, and the President, at such times as he deems desirable, but not less than once every year, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

(d) Monthly report of Department of Defense

For the purpose of aiding in carrying out the national policy to insure that a fair proportion of the total purchases and contracts for property and services for the Government be placed with small-business enterprises, and to maintain and strengthen the overall economy of the Nation, the Department of Defense shall make a monthly report to the President, the President of the Senate, the Senate Select Committee on Small Business, and the Speaker of the House of Representatives not less than forty-five days after the close of the month, showing the amount of funds appropriated to the Department of Defense which have been expended, obligated, or contracted to be spent with small-business concerns and the amount of such funds expended, obligated, or contracted to be spent with firms other than small business in the same fields of operation; and such monthly reports shall show separately the funds expended, obligated, or contracted to be spent for basic and applied scientific research and development.

(e) Retention of records

The Administration shall retain all correspondence, records of inquiries, memoranda, reports, books, and records, including memoranda as to all investigations conducted by or for the Administration, for a period of at least one year from the date of each thereof, and shall at all times keep the same available for inspection and examination by the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, or their duly authorized representatives.

[See main edition for text of (f)]

(g) Annual report of employee conduct complaints received or acted upon and investigations undertaken by Administration

The Administration shall transmit, not later than December 31 of each year, to the Senate Select Committee on Small Business and Committee on Small Business of the House of Representatives a sealed report with respect to—

(1) complaints alleging illegal conduct by employees of the Administration which were received or acted upon by the Administration during the preceding fiscal year; and

(2) investigations undertaken by the Administration, including external and internal audits and security and investigation reports.

(As amended Pub. L. 95-89, title II, §§ 203-208, 211, Aug. 4, 1977, 91 Stat. 557, 558.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-89, §§ 203, 211, included the Senate Select Committee on Small Business as an additional recipient of the annual report and provided for the contents of the report as it relates to minority small business concerns.

Subsec. (b). Pub. L. 95-89, § 204, substituted "Committee on Small Business of the House of Representatives" for "House Select Committee to Conduct a Study and Investigation of the Problems of Small Business".

Subsec. (c)(2). Pub. L. 95-89, § 205, included the Senate Select Committee on Small Business as an additional recipient of the required reports.

Subsec. (d). Pub. L. 95-89, § 206, included the Senate Select Committee on Small Business as an additional recipient of the required reports.

Subsec. (e). Pub. L. 95-89, § 207, substituted "Committee on Small Business of the House of Representatives" for "House Select Committee To Conduct a Study and Investigation of the Problems of Small Business".

Subsec. (g). Pub. L. 95-89, § 208, substituted "Senate Select Committee on Small Business and Committee on Small Business of the House of Representatives" for "Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking and Currency of the House of Representatives".

§ 644. Awards or contracts

(a) Determination

To effectuate the purposes of this chapter, small-business concerns within the meaning of this chapter shall receive any award or contract or any part thereof, and be awarded any contract for the sale of Government property, as to which it is determined by the Administration and the contracting procurement or disposal agency (1) to be in the interest of maintaining or mobilizing the Nation's full productive capacity, (2) to be in the interest of war or national defense programs, (3) to be in the interest of assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small-business concerns, or (4) to be in the interest of assuring that a fair proportion of the total sales of Government property be made to small-business concerns; but nothing contained in this chapter shall be construed to change any preferences or priorities established by law with respect to the sale of electrical power or other property by the Government or any agency thereof. These determinations may be made for individual awards or contracts or for classes of awards or contracts. Whenever the Administration and the contracting procurement agency fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator.

(b) Placement of contracts by contracting procurement agency

With respect to any work to be performed the amount of which would exceed the maximum amount of any contract for which a surety may be guaranteed against loss under section 694b of this title, the contracting procurement agency shall, to the extent practicable, place

contracts so as to allow more than one small business concern to perform such work.

(c) Eligibility; report to congressional committees

During fiscal year 1978, public and private organizations and individuals eligible for assistance under section 636(h) of this title shall be eligible to participate in such contracts or any part thereof in an aggregate amount not to exceed $100,000,000: *Provided, however,* That the Administration, not later than March 1, 1979, shall prepare and transmit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations and individuals on small business.

(d) Priority

For purposes of this section priority shall be given to the awarding of contracts and the placement of subcontracts to concerns which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy Number 4 (32A C.F.R. Chapter 1) or any successor policy shall be authorized if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. As soon as practicable and to the extent possible, in determining labor surplus areas, consideration shall be given to those persons who would be available for employment were suitable employment available. Until such definition reflects such number, the present criteria of such policy shall govern.

(e) Placement of contracts by departments, agencies, and instrumentalities of the executive branch

In carrying out labor surplus areas and small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

(1) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

(2) Concerns which are small business concerns on the basis of a total set-aside.

(3) Concerns which are small business concerns, on the basis of a partial set-aside.

(4) Concerns which are located in labor surplus areas on the basis of a total set-aside.

(f) Termination

The provisions of subsections (d) and (e) of this section shall cease to be effective subsequent to September 30, 1979, unless renewed prior to such date.

(As amended Pub. L. 95-89, title V, § 502, Aug. 4, 1977, 91 Stat. 562.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-89 designated existing provisions as subsec. (a).

Subsecs. (b) to (f). Pub. L. 95-89 added subsecs. (b) to (f).

CHAPTER 14B—SMALL BUSINESS INVESTMENT PROGRAM

SUBCHAPTER III—SMALL BUSINESS INVESTMENT COMPANIES

§ 681. Organization

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 662, 683, 687j of this title; title 42 sections 2985a, 5305.

§ 682. Capital requirements

[*See main edition for text of* (a)]

(b) Sale of shares of stock to banking organizations

Notwithstanding the provisions of section 1845(a)(1) of title 12, shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event may any such bank acquire shares in any small business investment company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed 5 percent of its capital and surplus.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-89, title II, § 210, Aug. 4, 1977, 91 Stat. 558.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-89 inserted "and" to make the corrected text read "capital and surplus".

SUBCHAPTER IV-A—GUARANTEES

§ 694. Revolving fund for commercial or industrial lease guarantees

There is created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of section 692 of this title. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 692 of this title, shall be deposited in the fund. All expenses, excluding administrative expenses, pursuant to operations of the Administrator under section 692 of this title shall be paid from the fund.

(As amended Pub. L. 95-89, title I, § 103, Aug. 4, 1977, 91 Stat. 556.)

AMENDMENTS

1977—Pub. L. 95-89 prohibited payment of administrative expenses from the fund and deleted provisions which authorized: a $10,000,000 appropriation of capital for the fund; payment during the fiscal year into the Treasury as miscellaneous receipts, from the fund,

of interest on the cumulative amount of appropriations available as capital to the fund less the average undisbursed cash balance in the fund during the year; and investment of noncapital moneys, when not needed for payment of current operating expenses or claims arising under section 692 of this title, in Federal bonds or obligations or bonds or obligations guaranteed by the United States as to principal and interest.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-89 effective on Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as an Effective Date of 1977 Amendment note under section 633 of this title.

§ 694-2. Revolving fund for qualified contract guarantees

There is created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purpose of section 694-1 of this title. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 694-1 of this title shall be deposited in the fund. All expenses and payments, excluding administrative expenses, pursuant to operations of the Administrator under section 694-1 of this title shall be paid from the fund.

(As amended Pub. L. 95-89, title I, § 104, Aug. 4, 1977, 91 Stat. 556.)

AMENDMENTS

1977—Pub. L. 95-89 prohibited payment of administrative expenses from the fund and deleted provisions which authorized: a $15,000,000 appropriation of capital for the fund; payment during the fiscal year into the Treasury as miscellaneous receipts, from the fund, of interest on the cumulative amount of appropriations available as capital to the fund less the average undisbursed cash balance in the fund during the year; and investment of noncapital moneys, when not needed for payment of current operating expenses or claims arising under section 694-2 of this title, in Federal bonds or obligations or bonds or obligations guaranteed by the United States as to principal and interest.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-89 effective on Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as an Effective Date of 1977 Amendment note under section 633 of this title.

§ 694b. Authority of Administration to guarantee surety against loss for principal's breach of bond

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 644 of this title.

§ 694c. Revolving fund for surety bond guarantees

There is created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments, excluding administrative expenses, pursuant to operations of the Administrator under this part shall be paid from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.

(As amended Pub. L. 95-14, § 4, Mar. 24, 1977, 91 Stat. 25; Pub. L. 95-89, title I, § 105, Aug. 4, 1977, 91 Stat. 556.)

AMENDMENTS

1977—Pub. L. 95-89 prohibited payment of administrative expenses from the fund and deleted provisions which authorized: a $110,000,000 appropriation of capital for the fund; and payment during the fiscal year into the Treasury as miscellaneous receipts, from the fund, of interest on the cumulative amount of appropriations available as capital to the fund less the average undisbursed cash balance in the fund during the year.

Pub. L. 95-14 substituted "$110,000,000" for "$56,500,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-89 effective on Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as an Effective Date of 1977 Amendment note under section 633 of this title.

CHAPTER 15—ECONOMIC RECOVERY

SUBCHAPTER I—GENERALLY

§ 712a. Limitation of obligations for administrative expenses of certain agencies; limitation on life of certain agencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1406a.

§ 713a-10. Authority to make expenditures; limitation on administrative expenses

The Commodity Credit Corporation is authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 849 of title 31, as may be necessary in carrying out the programs set forth in the budget for the fiscal year 1978, for such corporation, except as hereinafter provided:

For the fiscal year 1978, not to exceed $39,800,000 shall be available for administrative expenses of the Commodity Credit Corporation: *Provided*, That this authorization shall be available to support the Office of the General Sales Manager which shall work to expand and strengthen sales of U.S. commodities in world markets (including those of the Corporation) pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private

sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered and shall submit quarterly reports to the appropriate committees of Congress concerning such developments: *Provided further,* That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 665 of title 31, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof.

(Pub. L. 95-97, title I, § 101, Aug. 12, 1977, 91 Stat. 817, 818.)

SIMILAR PROVISIONS

Section is from the Agriculture and Related Agencies Appropriation Act, 1978. Similar provisions were contained in the following prior appropriation Act:

July 12, 1976, Pub. L. 94-351, title I, § 101, 90 Stat. 858.

SUBCHAPTER II—COMMODITY CREDIT CORPORATION

§ 714b. General powers of Corporation

The Corporation—

[*See main edition for text of* (*a*) *to* (*g*)]

(h) May contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control. The Corporation shall have power to acquire personal property necessary to the conduct of its business but shall not have power to acquire real property or any interest therein except that it may (a) rent or lease office space necessary for the conduct of its business and (b) acquire real property or any interest therein for the purpose of providing storage adequate to carry out effectively and efficiently any of the Corporation's programs, or of securing or discharging obligations owing to the Corporation, or of otherwise protecting the financial interests of the Corporation: *Provided,* That the authority contained in this subsection shall not be utilized by the Corporation for the purpose of acquiring real property, or any interest therein, in order to provide storage facilities for any commodity unless the Corporation determines that existing privately owned storage facilities for such commodity in the area concerned are not adequate: *Provided further,* That no refrigerated cold storage facilities shall be constructed or purchased except with funds specifically provided by Congress for that purpose: *And provided further,* That nothing contained in this subsection shall limit the duty of the Corporation, to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in the warehousing of commodities: *And provided further,* That to encourage the storage of grain on farms, where it can be stored at the lowest cost, the Corporation shall make loans to grain growers needing storage facilities when such growers shall apply to the Corporation for financing the construction or purchase of suitable storage, and these loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers: *And provided further,* That to encourage the storage of dry or high moisture grain, soybeans, and rice, and high moisture forage and silage on farms, where the commodities can be stored at the lowest cost, the Corporation shall—during the period beginning October 1, 1977, and ending September 30, 1981—make secured storage facility loans not to exceed $50,000 to growers of such commodities in amounts not less than 75 per centum of the total construction cost of such facility, including but not limited to the cost of structural and equipment foundations, electrical systems, grain handling systems, drying equipment, and site preparation, or, in the discretion of the Corporation, such loans may be made in such amounts not to exceed $50,000 to cover remodeling costs of existing storage facilities, as are set forth in regulations issued by the Secretary; the size of such facility for which a loan is obtained shall be based upon the amount of space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period; such loans shall be for a period not to exceed ten years at an interest rate based upon the rate of interest charged the Corporation by the United States Treasury; and the loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers. Notwithstanding any other provision of law, the Commodity Credit Corporation is authorized, upon terms and conditions prescribed or approved by the Secretary of Agriculture, to accept strategic and critical materials produced abroad in exchange for agricultural commodities acquired by the Corporation. Insofar as practicable, in effecting such exchange of goods, normal commercial trade channels shall be utilized and priority shall be given to commodities easily storable and those which serve as prime incentive goods to stimulate production of critical and strategic materials. The determination of the quantities and qualities of such materials which are desirable for stock piling and the determination of which materials are strategic and critical shall be made in the manner prescribed by section 2 of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) [50 U.S.C. 98a]. Strategic and critical materials acquired by Commodity Credit Corporation in exchange for agricultural commodities shall, to the extent approved by the Munitions Board of the Department of Defense, be transferred to the stock pile pro-

vided for by the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.]: and when transferred to the stock pile the Commodity Credit Corporation shall be reimbursed for the strategic and critical materials so transferred to the stock pile from the funds made available for the purpose of the Strategic and Critical Materials Stock Piling Act, in an amount equal to the fair market value, as determined by the Secretary of the Treasury, of the material transferred to the stock pile. Nothing contained herein shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such quantity of strategic and critical materials as it deems advisable in carrying out its functions and protecting its assets: *Provided*, That, notwithstanding any other provision of law, where a grain storage facility owned by the Corporation is not needed by the Corporation and, upon being offered for sale no person offers to pay the minimum price set by the Corporation for such facility for use in connection with storage or handling of agricultural commodities, then the Corporation may, without declaring such facility to be excess property, sell it by bids at not less than such minimum price to any public or private nonprofit agency or organization for use for the purposes of such agency or organization. This provision shall apply also to facilities which on the effective date of this Act have been declared excess to the needs of the Commodity Credit Corporation but have not been claimed by any other Government agency, or surplus to the needs of the Government but not disposed of pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.].

[*See main edition for text of* (i) *to* (m)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XI, § 1104, 91 Stat. 954.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-113 added proviso directing the Corporation to make secured storage facility loans of not to exceed $50,000 to growers of dry or high moisture grain, soybeans, rice, and high moisture forage and silage during the period Oct. 1, 1977, to Sept. 30, 1981.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 1104 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective only with respect to the fiscal years beginning Oct. 1, 1977, and ending Sept. 30, 1981.

CHAPTER 15B—NATURAL GAS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 719c, 719j, 790a of this title; title 10 section 7430; title 30 section 185; title 42 sections 7172, 7173; title 49 sections 1671, 1672; title 50 section 167i.

§ 717. Regulation of natural gas companies

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to establishment, review, and enforcement of rates and charges for transportation and sale of natural gas by a producer or gatherer or by a natural gas pipeline or natural gas company were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(C) and 7293 of Title 42, The Public Health and Welfare.

EMERGENCY NATURAL GAS ACT OF 1977

Pub. L. 95-2, §§ 1 to 14, Feb. 2, 1977, 91 Stat. 4 to 10, provided:

"[SECTION 1.] That this Act may be cited as the 'Emergency Natural Gas Act of 1977'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) The term 'high-priority use' means—

"(A) use of natural gas in a residence;

"(B) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

"(C) any other use of natural gas the termination of which the President determines would endanger life, health, or maintenance of physical property.

"(2) The term 'interstate pipeline' means any natural-gas company, as defined in section 2(6) of the Natural Gas Act [section 717a(6) of this title], which is engaged in the transportation by pipeline of natural gas.

"(3) The term 'intrastate pipeline' means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.

"(4) The term 'interstate natural gas' means natural gas (other than natural gas transported pursuant to a transportation certificate issued under 18 C.F.R. 2.79) transported by an interstate pipeline in a facility which is certificated under the Natural Gas Act [this chapter] or which would be required to be so certificated but for section 1(c) of such Act [subsec. (c) of this section].

"(5) The term 'local distribution company' means any person (including a governmental entity) which receives natural gas for local distribution and resale to natural gas users.

"(6) The term 'antitrust laws' means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 13, 14-19, 20, 21, 22-27), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8-9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a), and similar State laws.

"(7) The term 'State' means any State of the United States and the District of Columbia.

"PRESIDENTIAL DECLARATION

"SEC. 3. The President may declare a natural gas emergency if he finds that a severe natural gas shortage endangering the supply of natural gas for high-priority uses exists or is imminent in the United States or in any region thereof and that the exercise of his authorities under section 4 is reasonably necessary, having exhausted other remedies to the maximum extent practicable, to assist in meeting requirements for such uses. Such emergency shall be terminated when the President finds that such shortages no longer exist and are no longer imminent.

"EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS

"SEC. 4. (a)(1) If the President finds it necessary to assist in meeting the requirements for high-priority uses of natural gas (including short-term storage replenishment or injection for protection of high-priority uses), on the basis of a notification by the Governor of any State pursuant to subsection (c) or on the basis of other information available to the President, the President may, during a natural gas emergency declared under section 3, by order, require—

"(A) any interstate pipeline to make emergency deliveries of, or to transport, interstate natural gas to any other interstate pipeline or to any local distribu-

tion company served by an interstate pipeline for purposes of meeting such requirements;

"(B) any intrastate pipeline to transport interstate natural gas from any interstate pipeline to another interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements; or

"(C) the construction and operation by any pipeline of any facilities necessary to effect such deliveries or transportation.

No such delivery or transportation may continue after April 30, 1977, or after the President terminates the emergency declared under section 3, whichever is earlier.

"(2) No order may be issued under this subsection unless the President determines that such order will not—

"(A) create for the interstate pipeline delivering interstate natural gas a supply shortage which will cause such pipeline to be unable to meet the requirements for high-priority uses served, directly or indirectly, by such pipeline;

"(B) result in a disproportionate share of deliveries or curtailments of natural gas experienced by such interstate pipeline when compared to deliveries and resulting curtailments which are experienced as a result of orders applicable to other interstate pipelines (as determined by the President); and

"(C) require transportation of natural gas by any pipeline in excess of its available transportation capacity.

"(3) In issuing such order the President shall also consider the relative availability of alternative fuel to users of the interstate pipeline ordered to make deliveries pursuant to this section.

"(b) Compliance by any pipeline with an order issued under subsection (a) shall not subject such pipeline to regulation under the Natural Gas Act (15 U.S.C. 717 et seq.) [this chapter] or to regulation as a common carrier under any provision of State or Federal law. No action required to be taken under an order issued under subsection (a) shall be subject to any provision of the Natural Gas Act and any such order shall supersede any provision of a certification, or other requirement, under the Natural Gas Act which is inconsistent with such order.

"(c)(1) The Governor of any State may notify the President of any finding by such Governor that a shortage of natural gas within such State, endangering the supply of natural gas for high-priority uses, exists or is imminent and that the State, and agencies and instrumentalities thereof, have exercised their authority to the fullest extent practicable and reasonable under the circumstances to overcome such shortage.

"(2) The Governor shall submit, together with any notification under paragraph (1), information upon which he has based his finding under such paragraph, including—

"(A) volumes of natural gas required to meet the requirements for high-priority uses in such State;

"(B) information received from persons in the business of producing, selling, transporting, or delivering natural gas in such State as to the volumes of natural gas available in such State; and

"(C) such other information as the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed in such State.

"(d) The President may request that representatives of interstate pipelines, intrastate pipelines, local distribution companies, and other persons meet and provide assistance to the President in carrying out his authority under this section.

"(e)(1) In order to obtain information to carry out his authority under this Act, the President may—

"(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

"(B) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

"(C) secure, upon request, any information from any Federal department or executive agency.

"(2) The appropriate United States district court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpena or order of the President issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

"(f)(1) If the parties to any order issued under subsection (a) fail to agree upon the terms of compensation for deliveries (which may include compensation in kind) or transportation required pursuant to such order, the President, after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation (which may include compensation in kind) to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting such gas.

"(2) If, for the purpose of a supplemental order pursuant to paragraph (1), the party making emergency deliveries pursuant to subsection (a)—

"(A) indicates a preference for compensation in kind, the President shall direct that compensation in kind be provided by August 1, 1977, to the maximum extent practicable,

"(B) indicates a preference for compensation, or the President determines pursuant to paragraph (A) of this subsection that any portion thereof cannot practicably be compensated in kind, the President shall calculate the amount of compensation for deliveries of natural gas, based upon the amount required to make the interstate pipeline delivering such natural gas and its local distribution companies whole for loss of sales resulting therefrom; including the actual amount paid by such interstate pipeline or any of its local distribution companies for the volumes of natural gas or higher cost gas such as synthetic natural gas which were needed to replace natural gas delivered pursuant to an order under subsection (a); and for transportation, storage, and other expenses, based upon reasonable costs, as determined by the President.

"(g) In order to effect the purposes of this Act, the President shall monitor the operation of any order made pursuant to this section to assure that natural gas delivered pursuant to this section is applied to high-priority uses only.

"ANTITRUST PROTECTIONS

"SEC. 5. (a) There shall be available as a defense for any person to civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any action taken or meeting held pursuant to a request or order of the President under section 4(a) or (d) of this Act, if—

"(1) such action was taken or meeting held solely for the purpose of complying with the President's request or order;

"(2) such action was not taken for the purpose of injuring competition; and

"(3) such person complied with the requirements of subsection (b) of this section.

Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

"(b) A meeting held pursuant to a request by the President under section 4(d) or pursuant to an order under section 4(a) complies with the requirements of subsection (a) if—

"(1) there is present at such meeting a full-time Federal employee designated for such purposes by the Attorney General;

"(2) a full and complete record of such meeting is taken and deposited, together with any agreements resulting therefrom, with the Attorney General, who shall make it available for public inspection and copying;

"(3) the Attorney General and the Federal Trade Commission have the opportunity to participate from the beginning in the development and carrying out of agreements and actions under sections 4(a) and 4(d), in order to propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act; and

"(4) such other procedures as may be specified in such request or order are complied with.

"EMERGENCY PURCHASES

"SEC. 6. (a) The President may authorize any interstate pipeline or local distribution company served by an interstate pipeline (or class or category of such pipelines or companies) to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977—

"(1) from any producer of natural gas (other than a producer who is affiliated with the purchaser as determined by the President) if (A) such natural gas is not produced from the Outer Continental Shelf and (B) the sale or transportation of such gas was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act [this chapter], or

"(2) from any intrastate pipeline, local distribution company, or other person (other than in interstate pipeline or a producer of natural gas).

The President may not authorize any emergency purchase contract under this subsection for emergency supplies of natural gas for sale and delivery from any intrastate pipeline which is operating under court supervision as of January 1, 1977, unless the court approves.

"(b)(1) The provisions of the Natural Gas Act [this chapter] shall not apply—

"(A) to any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with any such sale; or

"(B) to any natural gas company (within the meaning of the Natural Gas Act [this chapter]) solely by reason of any such sale or transportation.

"(2) In exercising its authority under the Natural Gas Act [this chapter], the Federal Power Commission [see Transfer of Functions note set out above] shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made, demanded, or received by such pipeline, the amounts actually paid by it for natural gas purchased, transported, or other costs incurred pursuant to subsection (a).

"(c)(1) The President may, by order, require any pipeline to transport such natural gas, and to construct and operate such facilities for transportation of natural gas, as may be necessary to carry out contracts authorized under subsection (a). The costs of any such required construction shall be paid by the party receiving such natural gas. No such order shall require any pipeline to transport any natural gas in excess of such pipeline's available capacity.

"(2) Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act [this chapter] or to regulation as a common carrier under any provision of State law.

"(d) As used in this section, the term 'Outer Continental Shelf' has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

"ADJUSTMENT IN CHARGES FOR LOCAL DISTRIBUTION COMPANIES

"SEC. 7. Compensation received by an interstate pipeline pursuant to section 4 in excess of the amount such pipeline would have charged its local distribution companies shall be credited to such local distribution companies in proportion to their share of any natural gas not delivered together with credits necessary to make whole any local distribution company which replaced such natural gas with higher cost gas such as synthetic natural gas as prescribed in section 4(f)(2)(B). Compensation paid by an interstate pipeline for deliveries or emergency purchases of natural gas pursuant to section 4 or section 6 shall be charged to such interstate pipeline's local distribution companies in proportion to their share of such natural gas deliveries or purchases.

"RELATIONSHIP TO NATURAL GAS ACT

"SEC. 8. Except as expressly provided in this Act, nothing contained in this Act shall be interpreted to change, modify, or otherwise affect rules, regulations, or other regulatory requirements or procedures of the Federal Power Commission [see Transfer of Functions note set out above] pursuant to the provisions of the Natural Gas Act [this chapter].

"EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"SEC. 9. (a) There shall be available as a defense to any action brought for breach of contract under Federal or State law arising out of any act or omission that such act was taken or that such omission occurred for purposes of complying with any order issued under section 4(a).

"(b) Any contractual provision—

"(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act [this chapter], or

"(2) terminating any obligation under any such contract as a result of such sale or commingling, is hereby declared against public policy and unenforceable with respect to such natural gas if an order under section 4(a) or an authorization under section 6(a) applies to the delivery, transportation, or contract for supplies of such natural gas.

"(c) The amounts and prices of any natural gas purchases pursuant to an order under section 4(a), an authorization under section 6(a), or a contract entered into pursuant to 18 C.F.R. 2.68 after the date of the enactment of this Act [Feb. 2, 1977] and before August 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 10. (a) Subchapter II of chapter 5 of title 5 of the United States Code (other than sections 554, 556, and 557 thereof) shall apply to orders and other actions under this Act.

"(b) Except with respect to enforcement of orders or subpenas under section 4(e), the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended [set out as a note under section 1904 of Title 12, Banks and Banking], shall have exclusive original jurisdiction to review all civil cases and controversies under this Act, including any order issued, or other action taken, under this Act. The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from the district courts of the

United States in cases and controversies arising under section 4(e) of this Act; such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(c) Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, by the President under this Act.

"ENFORCEMENT

"SEC. 11. (a) Any person who violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be subject to a civil penalty of not more than $25,000 for each violation of such order. Each day of violation shall constitute a separate offense.

"(b) Any person who willfully violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be fined not more than $50,000 for each violation of such order. Each day of violation shall constitute a separate violation.

"(c) Whenever it appears to the President that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order issued under section 4(a), any supplemental order issued under section 4(f), or any order under section 6(c), the President may request the Attorney General to bring a civil action to enjoin such acts or practices and, upon showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. In any such action, the court may also issue mandatory injunctions commanding any person to comply with any such order or supplemental order.

"REPORTING

"SEC. 12. (a) In issuing any order under section 4(a) or granting any authorization under section 6, the President shall require that the prices and volumes of natural gas delivered, transported, or contracted for pursuant to such order or authorization shall be reported to him on a weekly basis and such reports shall be made available to the Congress.

"(b) The President shall report to Congress not later than October 1, 1977, respecting his actions under this Act.

"DELEGATION OF AUTHORITIES

"SEC. 13. The President may delegate all or any portion of the authority granted to him under this Act to such executive agencies (within the meaning of 5 U.S.C. 105) or officers of the United States as he determines appropriate, and may authorize such redelegation as may be appropriate. Except with respect to section 552 of title 5 of the United States Code, any officer or executive agency of the United States to which authority is delegated or redelegated under this Act shall be subject only to such procedural requirements respecting the exercise of such authority as the President would be subject to if such authority were not so delegated.

"PREEMPTION OF INCONSISTENT STATE OR LOCAL ACTION

"SEC. 14. Any order issued pursuant to this Act shall preempt any provision of any program for the allocation, emergency delivery, transportation, or purchase of natural gas established by any State or local government if such program is in conflict with any such order."

EX. ORD. NO. 11969. ADMINISTRATION OF EMERGENCY NATURAL GAS ACT OF 1977

Ex. Ord. No. 11969, Feb. 2, 1977, 42 F.R. 6791, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 13 of the Emergency Natural Gas Act of 1977 (Public Law 95-2) [set out as a note above], and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. There is hereby delegated to the Chairman of the Federal Power Commission [see Transfer of Functions note set out above] hereafter the Chairman, all of the authority vested in the President by the Emergency Natural Gas Act of 1977 [set out as a note above], except for the authority to declare and terminate a natural gas emergency pursuant to Section 3 of said Act [set out as a note above]. Nothing in such delegation shall be construed as delegating such authority to the Federal Power Commission as a collective body, except insofar as the Chairman may further delegate his authority under Section 3 of this Order.

SEC. 2. The Chairman shall, to the extent he deems appropriate, consult with the Secretary of the Interior, the Administrator of the Federal Energy Administration [see Transfer of Functions note set out under section 761 of this title], other members of the Federal Power Commission [see Transfer of Functions note set out above] and the heads of other Executive agencies in exercising the authority delegated to him by this Order.

SEC. 3. All authority delegated to the Chairman by this Order may be further delegated, in whole or in part, by the Chairman to any other officer of the United States or to any Executive agency.

SEC. 4. The heads of all Executive agencies shall cooperate with and assist the Chairman in carrying out the authority delegated to him by this Order.

SEC. 5. All Executive agencies shall, to the extent permitted by law, provide the Chairman on request such administrative support and information as may be necessary to carry out the authority delegated to him by this Order.

JIMMY CARTER.

PROCLAMATION NO. 4485

Proc. No. 4485, Feb. 2, 1977, 42 F.R. 6789, under which the President declared that a natural gas emergency existed within the meaning of section 3 of the Emergency Natural Gas Act of 1977, set out as a note above, has been eliminated as said declaration was terminated by Proc. No. 4495, Apr. 1, 1977, 42 F.R. 18053, set out as a note below.

PROC. NO. 4495. TERMINATION OF NATURAL GAS EMERGENCY

Proc. No. 4495, Apr. 1, 1977, 42 F.R. 18053, provided:

On February 2, 1977, Proclamation No. 4485 was issued which proclaimed and declared the existence of a natural gas emergency within the meaning of Section 3 of the Emergency Natural Gas Act of 1977 [set out as a note above]. Such action was necessary because of the imminent shortage of natural gas for high-priority uses and the inadequacy of remedial measures other than the extraordinary measures authorized by Section 4 of that Act [set out as a note above]. Section 3 of the Emergency Natural Gas Act of 1977 [set out as a note above], however, requires termination of such emergency when the President finds that such shortages no longer exist and are no longer imminent.

I now find that the severe natural gas shortages which necessitated the declaration of a natural gas emergency within the meaning of Section 3 of said Act [set out as a note above] no longer exist and are no longer imminent.

Now, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me by the Constitution and statutes of the United States, including the Emergency Natural Gas Act of 1977 [set out as a note above], do hereby proclaim and declare that the natural gas emergency de-

clared to exist by Proclamation No. 4485 of February 2, 1977 is terminated.

The fact that this winter's natural gas emergency is over in no way signals an end to our energy crisis. On the contrary, it is a reminder that our natural gas supply is far short of potential demand. Unless we take remedial action to develop a natural gas policy as part of a comprehensive energy policy, our economy, and even our homes, will be in increasing danger with each passing year. On April 20, 1977, I shall propose a policy to provide a long-term solution to our energy problems.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and first.

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§§ 717a, 717b

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

§ 717c. Rates and charges

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to establishment, review, and enforcement of rates and charges for transportation and sale of natural gas by a producer or gatherer or by a natural gas pipeline or natural gas company and the establishment, review, and enforcement of curtailments under this chapter, other than the establishment and review of priorities for such curtailments, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(C), (E) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172; title 50 section 167i.

§ 717d. Fixing rates and charges; determination of cost of production or transportation

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to establishment, review, and enforcement of rates and charges for transportation and sale of natural gas by a producer or gatherer or by a natural gas pipeline or natural gas company were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(C) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172; title 50 section 167i.

§ 717e. Ascertainment of cost of property

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to establishment, review, and enforcement of rates and charges for transportation and sale of natural gas by a producer or gatherer or by a natural gas pipeline or natural gas company were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(C) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 717f. Construction, extension, or abandonment of facilities

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to issuance of certificates of public convenience and necessity, including abandonment of facilities or services, and the establishment of physical connections were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(D) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172; title 49 section 1676.

§§ 717g, 717h

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 42 section 7172.

§§ 717i, 717j

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 42 section 7177.

§§ 717*l* to 717p

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 42 section 7172.

§§ 717q, 717r

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal

Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

§§ 717s, 717t

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 42 section 7172.

§ 717u. Jurisdiction of offenses; enforcement of liabilities and duties

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 15C—ALASKA NATURAL GAS TRANSPORTATION

§§ 719b to 719e

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

§ 719f. Congressional review

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

CONGRESSIONAL APPROVAL OF PRESIDENTIAL DECISION ON ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Pub. L. 95-158, Nov. 8, 1977, 91 Stat. 1268, provided: "That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural [National] Environmental Policy Act of 1969 [section 4321 et seq. of Title 42, The Public Health and Welfare]."

§ 719k. Equal access to facilities

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 16A—EMERGENCY PETROLEUM ALLOCATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 766, 793, 796 of this title; title 42 sections 6263, 6272, 6391, 7193, 7194.

§ 753. Mandatory allocation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 754 to 758, 760 to 760g, 764 of this title; title 42 sections 6241, 6263, 6271, 7172.

§ 757. Oil pricing policy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 753, 758, 760a, 760g of this title; title 42 section 7172.

§ 760a. Conversion mechanism to standby authorities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 760f, 764 of this title; title 42 section 7172.

CHAPTER 16B—FEDERAL ENERGY ADMINISTRATION

SUBCHAPTER I—FEDERAL ENERGY ADMINISTRATION

Sec.
788. Use of commercial standards [New].
(a) General notice of proposed rulemaking.
(b) Promulgation of commercial standards.
(c) Consultation with Attorney General and Chairman of Federal Trade Commission; impact of rules on competition.
(d) Rules relating to Administration procurement activities.
(e) Participation of Administration employees in organizations relating to promulgation of commercial standards.
(f) Definition.
789. Organizational conflicts [New].
(a) Information bearing on possible conflict of interest.
(b) Required finding that no conflict of interest exists or that conflicts have been avoided; mitigation of conflict when conflict is unavoidable.
(c) Rules and regulations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 798 of this title; title 42 sections 6273, 7194.

SUBCHAPTER I—FEDERAL ENERGY ADMINISTRATION

§ 761. Congressional declaration of purpose

EFFECTIVE AND TERMINATION DATES

Section 30 of Pub. L. 93-275, as amended by Pub. L. 94-332, June 30, 1976, 90 Stat. 784; Pub. L. 94-385, title I, § 112, Aug. 14, 1976, 90 Stat. 1132; Pub. L. 95-70, § 6, July 21, 1977, 91 Stat. 277, under which this chapter became effective sixty days after May 7, 1974, and was to terminate Sept. 30, 1978, was repealed by Pub. L. 95-91, title VII, § 709(a)(1), Aug. 4, 1977, 91 Stat. 607.

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-70, § 1, July 21, 1977, 91 Stat. 275, provided that: "This Act [enacting sections 788 and 789 of this title and amending sections 766 and 792 of this title, sections 6246, 6309, and 6881 of Title 42, The Public Health and Welfare, and notes under this section] may be cited as the 'Federal Energy Administration Authorization Act of 1977'."

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and the functions vested by law in the Administration or in its Administrator, officers, and components were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

AUTHORIZATION OF APPROPRIATIONS

Section 29 of Pub. L. 93-275, as amended by Pub. L. 94-385, title I, § 110, Aug. 14, 1976, 90 Stat. 1130; Pub. L. 95-70, § 2, July 21, 1977, 91 Stat. 275, provided that:

"(a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed $35,627,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed $41,017,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Information and Analysis as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed $34,971,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed $43,544,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed $62,459,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and Environment as of January 1, 1977 (other than functions described in part A [section 6861 et seq. of Title 42, The Public Health and Welfare] and part D [section 6881 et seq. of Title 42] of title IV of the Energy Conservation and Production Act, parts B [section 6291 et seq. of Title 42] and C [section 6321 et seq. of Title 42] of title III of the Energy Policy and Conservation Act and, for the fiscal year ending September 30, 1977, functions described in title II of the Energy Conservation and Production Act [section 6801 et seq. of Title 42] and in paragraph (7) of this subsection)—

"(A) for the fiscal year ending September 30, 1977, not to exceed $38,603,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed $46,908,000.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed $16,934,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed $26,017,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed $1,921,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed $1,846,000.

"(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities, for the fiscal year ending September 30, 1977, not to exceed $2,500,000.

"(8) for the purpose of permitting public use of the Project Independence Evaluation System pursuant to section 31 of this Act [section 787 of this title], not to exceed the aggregate amount of the fees estimated to be charged for such use.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions identified as assigned to the Office of Communication and Public Affairs as of January 1, 1977, shall not exceed $2,112,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) No amounts authorized to be appropriated in paragraphs (5) (B) and (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.

"(d) Subject to the provisions of any other law enacted after the date of the enactment of this subsection [July 21, 1977], if any function for which funds are authorized to be appropriated by this section is transferred by or pursuant to any such provision of law to any department, agency, or office, the unexpended balances of appropriations, authorizations, allocations, and other funds, held, used, arising from, available to, or to be made available in connection with such function shall be transferred to such department, agency, or office, but shall continue to be subject to any restriction to which they were subject before such transfer."

§ 762. Establishment

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and the functions vested by law in the Administration or in its Administrator, officers and components were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 763. Repealed. Pub. L. 95-91, title VII, § 709(a)(1), Aug. 4, 1977, 91 Stat. 607

Section, Pub. L. 93-275, § 4, May 7, 1974, 88 Stat. 97, related to officers of the Federal Energy Administration.

§§ 764, 765

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 766. Administrative provisions

(a) Rules, regulations, and procedures; Environmental Protection Agency, notification; quality of environment, publication of comments; emergency preclusion of review by Environmental Protection Agency

The Administrator may promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him: *Provided*, That:

(1) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

(2) The review required by paragraph (1) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires making effective the action proposed to be taken at a date earlier than would permit the Administrator of the Environmental Protection Agency the five working days opportunity for prior comment required by paragraph (1). Notice of any such waiver shall be given to the Administrator of the Environmental Protection Agency and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as the Administrator determines will apprise such agency and the public of the reasons for such waiver.

The review required by paragraphs (1) and (2) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires immediate action.

(b) Adjustments; procedures respecting application and operation; judicial review

Any officer or agency authorized to issue any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, pursuant to this chapter shall provide for the making of such adjustments, consistent with the other purposes of this chapter, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such officer or agency shall, within ninety days after August 14, 1976, establish criteria and guidelines by which such special hardship, inequity, or unfair distribution of burdens shall be evaluated. Such officer or agency shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, he may request a review of such denial by the agency and may obtain judicial review in accordance with subsection (c) of this section when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.

(c) Judicial review of administrative rulemaking; filing of petition in United States Court of Appeals

Judicial review of administrative rulemaking of general and national applicability done under this chapter, except that done pursuant to the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.], may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule, regulation, or order, and judicial review of administrative rulemaking of general, but less than national, applicability done under this chapter, except that done pursuant to the Emergency Petroleum Allocation Act of 1973, may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule, regulation, or order, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule, regulation, or order is to have effect.

(d) to (k) Repealed or redesignated. Pub. L. 95-91, title VII, § 709(a)(2)(B), (C), (F), (G), Aug. 4, 1977, 91 Stat. 608

(*l*) Authority and responsibility of General Counsel

Effective beginning July 1, 1977, amounts authorized to be appropriated under this chapter or any other Act shall not be available for the payment of salaries and other expenses with respect to any office of regional counsel of the Administration unless such office is under the direct supervision and control of the General Counsel of the Administration.

(As amended Pub. L. 95-70, § 8, July 21, 1977, 91 Stat. 277; Pub. L. 95-91, title VII, § 709(a)(2), Aug. 4, 1977, 91 Stat. 607.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-91, § 709(a)(2)(A), struck out subsec. (a) provisions: for appointment, employment, and compensation of officers and employees; for prescription of their authority and duties; for placement of specified number of positions in GS-16, 17, and 18 and making competitive service provisions inapplicable to a limited number of such positions; and

making classification standards and procedures applicable to the authority provided for in this section and for duration of such authority; and redesignated former subsec. (c) as (a).

Subsec. (b). Pub. L. 95-91, § 709(a)(2)(A), (C) to (E), struck out subsec. (b) provisions respecting employment and compensation of experts and consultants, redesignated former subsec. (i)(1)(D) as (b), and substituted therein "any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5 pursuant to this chapter" for "the rules, regulations, or orders described in paragraph (A)" and "subsection (c) of this section" for "paragraph (2) of this subsection".

Subsec. (c). Pub. L. 95-91, § 709(a)(2)(F), redesignated former subsec. (i)(2)(A) as (c). Former subsec. (c) redesignated (a).

Subsecs. (d) to (h). Pub. L. 95-91, § 709(a)(2)(B), struck out subsecs. (d) to (h) relating to: interagency cooperation and reimbursement; seal and judicial notice; acceptance of gifts; contract authority; and performance of other necessary activities.

Subsec. (i)(1)(A) to (C). Pub. L. 95-91, § 709(a)(2)(C), struck out subpar. (A) to (C) provisions relating to: application of subch. II of ch. 5 of title 5 to rules, regulations, or orders issued under this chapter; publication of notice of proposed rules, regulations, or orders in the Federal Register and opportunity for comment and waiver of the requirements when warranted by considerations of public health, safety, or welfare; and opportunity for oral presentation of views, data, and arguments where rules, regulations, or orders are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

Subsec. (i)(1)(D). Pub. L. 95-91, § 709(a)(2)(C), redesignated subpar. (D) as subsec. (b).

Subsec. (i)(E), (F). Pub. L. 95-91, § 709(a)(2)(C), struck out provisions of subpars. (E) and (F) providing for public availability of internal rules and guidelines of the agency forming a basis for rules, regulations, or orders and agency opinions respecting determinations of requests for exception or exemption from rules or orders; and procedures for holding hearings or oral presentation of views with respect to rules or regulations the effects of which are confined to a single unit of local government or the residents thereof, a single geographic area within a State or the residents thereof, or a single State or the residents thereof.

Subsec. (i)(2)(A). Pub. L. 95-91, § 709(a)(2)(F), redesignated subpar. (A) as subsec. (c).

Subsec. (i)(2)(B), (3). Pub. L. 95-91, § 709(a)(2)(F), (G), struck out par. (2)(B) provisions relating to jurisdiction of federal district courts, power of courts of competent jurisdiction to consider defenses, removal of cases raising constitutional defenses, and concurrent jurisdiction of cases or controversies arising under rules, regulations, or orders of State or local government agencies; and par. (3) provisions relating to procedures for State or local government agencies.

Subsecs. (j), (k). Pub. L. 95-91, § 709(a)(2)(G), struck out subsecs. (j) and (k) relating to information for independent regulatory agencies and limitation on enforcement authority of the Administrator.

Subsec. (*l*). Pub. L. 95-70 added subsec. (*l*).

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 767. Transitional and savings provisions

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 768. Repealed. Pub. L. 95-91, title VII, § 709(a)(1), Aug. 4, 1977, 91 Stat. 607

Section, Pub. L. 93-275, § 9, May 7, 1974, 88 Stat. 105, related to incidental transfers of personnel, assets, liabilities, contracts, etc., by the Director of the Office of Management and Budget necessary and appropriate to accomplish the intent and purpose of this chapter.

§ 770. Appointments

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 771. Comptroller General, powers and duties

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

The functions of the Comptroller General of the United States under this section were made applicable with respect to the monitoring and evaluation of all functions and activities of the Department of Energy by section 7137 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 6892, 7137.

§ 772. Administrator's information-granting power

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 774, 790 of this title; title 42 section 6274.

§ 773. Public disclosure of information

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 774. Reports and recommendations

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7267.

§ 776. Advisory committees

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 6273, 7234; title 50 App. section 2158a.

§§ 777 to 785

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 786. Repealed. Pub. L. 95–91, title VII, § 709(a)(1), Aug. 4, 1977, 91 Stat. 607

Section, Pub. L. 93–275, § 28, May 7, 1974, 88 Stat. 115, provided that upon termination of this chapter, any functions or personnel transferred by this chapter shall revert to the department, agency, or office from which they were transferred.

§ 787. Project Independence evaluation system documentation; access to model by Congress and public

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 788. Use of commercial standards

(a) General notice of proposed rulemaking

If any proposed rule by the Administrator contains any commercial standards, or specifically authorizes or requires the use of any such standards, then any general notice of the proposed rulemaking shall—

(1) identify, by name, the organization which promulgated such standards; and

(2) state whether or not, in the judgment of the Administrator, such organization complied with the requirements of subsection (b) of this section in the promulgation of such standards.

(b) Promulgation of commercial standards

An organization complies with the requirements of this subsection in promulgating any commercial standards if—

(1) it gives interested persons adequate notice of the proposed promulgation of the standards and an opportunity to participate in the promulgation process through the presentation of their views in hearings or meetings which are open to the public;

(2) the membership of the organization at the time of the promulgation of the standards is sufficiently balanced so as to allow for the effective representation of all interested persons;

(3) before promulgating such standards, it makes available to the public any records of proceedings of the organization, and any documents, letters, memorandums, and materials, relating to such standards; and

(4) it has procedures allowing interested persons to—

(A) obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards, and

(B) obtain a review of the standards (including a review of the basis or adequacy of such standards).

(c) Consultation with Attorney General and Chairman of Federal Trade Commission; impact of rules on competition

The Administrator shall not incorporate within any rule, nor prescribe any rule specifically authorizing or requiring the use of, any commercial standards unless he has consulted with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of such standards on competition and neither such individual recommends against such incorporation or use.

(d) Rules relating to Administration procurement activities

The foregoing provisions of this section shall not apply with respect to rules prescribed by the Administrator which relate to the procurement activities of the Administration.

(e) Participation of Administration employees in organizations relating to promulgation of commercial standards

Not later than 90 days after July 21, 1977, the Administrator shall prescribe, by rule, guidelines or criteria which set forth the extent to which, and the terms and conditions under which, employees of the Administration may participate in their official capacity in the activities of any organization (which is not a Federal entity) which relate to the promulgation of commercial standards. Such guidelines and criteria may allow for such participation if it is in the public interest and relates to the purposes of this chapter, but in no event may such employees who are participating in their official capacity be allowed under such guidelines or criteria to vote on any matter relating to commercial standards.

(f) Definition

As used in this section, the term "commercial standards" means—

(1) specifications of materials;

(2) methods of testing;

(3) criteria for adequate performance or operation;

(4) model codes;

(5) classification of components;

(6) delineation of procedures or definition of terms;

(7) measurement of quantity or quality for evaluating or referring to materials, products, systems, services, or practices; or

(8) similar rules, procedures, requirements, or standards;

which are promulgated by any organization which is not a Federal entity. For purposes of the preceding sentence, any revision by any such organization of any such rule, procedure, requirement, or standard shall be considered to be the same as the promulgation of such standard.

(Pub. L. 93-275, § 32, as added Pub. L. 95-70, § 9, July 21, 1977, 91 Stat. 278.)

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 789. Organizational conflicts

(a) Information bearing on possible conflict of interest

The Administrator shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this chapter or any other law administered by him for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Administrator, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Administrator, bearing on whether that person has a possible conflict of interest with respect to—

(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

(2) being given an unfair competitive advantage.

Such person shall insure, in accordance with regulations prescribed by the Administrator, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than $10,000.

(b) Required finding that no conflict of interest exists or that conflicts have been avoided; mitigation of conflict when conflict is unavoidable

The Administrator shall not enter into any such contract, agreement, or arrangement unless he finds, after evaluating all information provided under subsection (a) of this section and any other information otherwise available to him that—

(1) it is unlikely that a conflict of interest would exist, or

(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement;

except that if he determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Administrator may enter into such contract, agreement, or arrangement, if he determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(c) Rules and regulations

The Administrator shall publish rules for the implementation of this section, in accordance with section 553 of title 5 (without regard to subsection (a)(2) thereof) as soon as practicable after July 21, 1977, but in no event later than 120 days after such date.

(Pub. L. 93-275, § 33, as added Pub. L. 95-70, § 10, July 21, 1977, 91 Stat. 279.)

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER II—OFFICE OF ENERGY INFORMATION AND ANALYSIS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 7135.

§ 790. Establishment of Office of Energy Information and Analysis

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

§ 790a. National Energy Information System; information required to be maintained

(a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this chapter as the "System"), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of—

(1) the Federal Energy Administration in carrying out its lawful functions;

(2) the Congress;

(3) other officers and employees of the United States in whom have been vested, or to whom have been delegated energy-related policy decisionmaking responsibilities; and

(4) the States to the extent required by the Natural Gas Act [15 U.S.C. 717 et seq.] and

the Federal Power Act [16 U.S.C. 791a et seq.].

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-91, title VII, § 709(a)(3), Aug. 4, 1977, 91 Stat. 608.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (a)(4), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of this title. For complete classification of this act to the code, see section 717w of this title and Tables.

The Federal Power Act, referred to in subsec. (a)(4), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-91 added par. (4).

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 790b. Administrative provisions

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7135.

§ 790c. Analysis and evaluation of energy information; establishment and maintenance by Director of professional, etc., capability; specific capabilities

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 790d. Annual performance audit review of procedures and methodology by Professional Audit Review Team

[*See main edition for text of* (*a*)]

(b) Membership, appointment and Chairman of Team

The Professional Audit Review Team shall consist of at least six professionally qualified persons who shall be officers or employees of the United States and of whom at least—

one shall be designated by the Chairman of the Council of Economic Advisers;

one shall be designated by the Commissioner of Labor Statistics;

one shall be designated by the Administrator of Social and Economic Statistics;

one shall be designated by the Chairman of the Securities and Exchange Commission;

one shall be designated by the Chairman of the Federal Trade Commission; and

one, who shall be the Chairman of the Professional Audit Review Team, shall be designated by the Comptroller General.

[*See main edition for text of* (*c*) *and* (*d*)]

(As amended Pub. L. 95-91, title VII, § 709(a)(4), Aug. 4, 1977, 91 Stat. 608.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-91 reduced the minimum required number of professionally qualified persons for the Team to six from seven and struck out provision for designation of one person for the Team by the Chairman of the Federal Power Commission.

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7135.

§ 790e. Coordination by Director of energy information gathering activities of Federal agencies

REFERENCES IN TEXT

Section 5818 of title 42, referred to in subsec. (c), was repealed by Pub. L. 95-91, title VII, § 709(b), Aug. 4, 1977, 91 Stat. 608.

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§§ 790f, 790g

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 790h. Congressional access to energy information; disclosure by Congress

TRANSFER OF FUNCTIONS

The functions assigned to the Director of the Office of Energy Information and Analysis under this subchapter were vested in the Administrator of the Energy Information Administration within the Department of Energy by section 7135(c) of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7135.

CHAPTER 16C—ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 6274, 7194, 7410, 7411, 7473.

§ 792. Coal conversion and allocation

[*See main edition for text of (a) to (e)*]

(f) Expiration of authority; effective dates

(1) Authority to issue orders or rules under subsections (a) through (d) of this section shall expire at midnight, December 31, 1978. Such a rule or order may take effect at any time before January 1, 1985.

[*See main edition for text of (2)*]

(As amended Pub. L. 95-70, § 7, July 21, 1977, 91 Stat. 277.)

REFERENCES IN TEXT

Section 1857c-10 of title 42, referred to in subsec. (b)(2)(B) and (3)(B), was in the original a reference to section 119 of the Clean Air Act, and was repealed by Pub. L. 95-95, § 112(b), which provided in part that references in this section to section 1857c-10 shall be construed to refer to section 7413(d) of title 42 and to paragraph (5) thereof in particular. For further details, see Compliance Orders note set out below.

AMENDMENTS

1977—Subsec. (f)(1). Pub. L. 95-70 substituted "shall expire at midnight, December 31, 1978" for "shall expire at midnight, June 30, 1977".

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

COMPLIANCE ORDERS

Pub. L. 95-95, title I, § 112(b), Aug. 7, 1977, 91 Stat. 709, repealed section 119 of the Clean Air Act, which was classified to section 1857c-10 of Title 42, The Public Health and Welfare, and which related to the Administrator's authority to deal with the energy shortage. Section 112(b) of Pub. L. 95-95 provided that:

"(1) Section 119 of such Act [section 1857c-10 of Title 42, The Public Health and Welfare] is hereby repealed. All references to such section 119 [section 1857c-10 of Title 42] or subsections thereof in section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93-319) [this section] or any amendment thereto, or any subsequent enactment which supersedes such Act [Pub. L. 93-319, June 22, 1974, 88 Stat. 246], shall be construed to refer to section 113(d) of the Clean Air Act [section 7413(d) of Title 42] and to paragraph (5) thereof in particular. Any certification or notification required to be given by the Administrator of the Environmental Protection Agency under section 2 of the Energy Supply and Environmental Coordination Act of 1974 [this section] or any amendment thereto, or any subsequent enactment which supersedes such Act, shall be given only when the Governor of the State in which is located the source to which the proposed order under section 113(d)(5) of the Clean Air Act [section 7413(d)(5) of Title 42] is to be issued gives his prior written concurrence.

"(2) In the case of any major stationary source to which any requirement is applicable under section 113(d)(5)(B) of the Clean Air Act [section 7413(d)(5)(B) of Title 42] and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 [this section] or any amendment thereto, or any subsequent enactment which supersedes such Act [Pub. L. 93-319], the Administrator of the Environmental Protection Agency shall certify the date which he determines is the earliest date that such source will be able to comply with all such requirements. In the case of any plant or installation which the Administrator of the Environmental Protection Agency determines (after consultation with the State) will not be subject to an order under section 113(d) of the Clean Air Act [section 7413(d) of Title 42] and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 [this section] or any amendment thereto, or any subsequent enactment which supersedes such Act [Pub. L. 93-319], the Administrator of the Environmental Protection Agency shall certify the date which he determines is the earliest date that such plant or installation will be able to burn coal in compliance with all applicable emission limitations under the implementation plan.

"(3) Any certification required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 [this section] or any amendment thereto, or any subsequent enactment which supersedes such Act [Pub. L. 93-319], or under this subsection may be provided in an order under section 113(d) of the Clean Air Act [section 7413(d) of Title 42]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 793, 797 of this title; title 42 sections 7411, 7413, 7420, 7473.

§ 793. Protection of public health and environment

[*See main edition for text of (a), (b)*]

(c) Major Federal actions significantly affecting the quality of the human environment

(1) No action taken under the Clean Air Act [42 U.S.C. 7401 et seq.] shall be deemed a major Federal action significantly affecting the quality of the human environment within the

meaning of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

[See main edition for text of (c)(2), (d)]

REFERENCES IN TEXT

Section 119 of the Clean Air Act [42 U.S.C. 1857c-10], referred to in subsec. (b), was repealed by Pub. L. 95-95, § 112(b)(1), Aug. 7, 1977, 91 Stat. 709, which is set out as a Compliance Orders note under section 792 of this title. A new section 119 of the Clean Air Act was added by Pub. L. 95-95, § 117(b), and is classified to section 7419 of Title 42, The Public Health and Welfare.

The Clean Air Act, referred to in subsec. (c), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act of the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (c)(1) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

§ 794. Energy conservation study

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 796. Reporting of energy information

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 772, 790, 797 of this title; title 42 sections 5917, 6274, 6299, 6346, 6381, 7135.

§ 797. Enforcement

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 798. Definitions

(a) For purposes of this chapter and the Clean Air Act [42 U.S.C. 7401 et seq.] the term "Federal Energy Administrator" means the Administrator of the Federal Energy Administration established by Federal Energy Administration Act of 1974 [15 U.S.C. 761 et seq.]; except that until such Administrator takes office and after such Administration ceases to exist, such term means any officer of the United States designated as Federal Energy Administrator by the President for purposes of this chapter and section 119 of the Clean Air Act [42 U.S.C. 1857c-10]

[See main edition for text of (b)]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

Section 119 of the Clean Air Act [42 U.S.C. 1857c-10], referred to in subsec. (a), was repealed by Pub. L. 95-95, § 112(b)(1), Aug. 7, 1977, 91 Stat. 709, which is set out as a Compliance Orders note under section 792 of this title. A new section 119 of the Clean Air Act was added by Pub. L. 95-95, § 117(b), and is classified to section 7419 of Title 42, The Public Health and Welfare.

CODIFICATION

Subsec. (a) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 22—TRADE-MARKS

CHAPTER REFERRED TO IN OTHER CHAPTERS

This chapter is referred to in title 48 section 1643.

CHAPTER 30—HAZARDOUS SUBSTANCES

§ 1261. Definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administra-

tion (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 38—TRAFFIC AND MOTOR VEHICLE SAFETY

Chapter Referred to in Other Sections

This chapter is referred to in sections 1920, 2002 of this title; title 42 section 4905; title 49 sections 1652, 1655.

SUBCHAPTER I—MOTOR VEHICLE SAFETY STANDARDS

Part A—General Provisions

§ 1392. Motor vehicle safety standards

(a) Establishment

The Secretary shall establish by order appropriate Federal motor vehicle safety standards. Each such Federal motor vehicle safety standard shall be practicable, shall meet the need for motor vehicle safety, and shall be stated in objective terms.

[*See main edition for text of* (b), (c)]

(d) Supremacy of federal standards; allowable higher standards for vehicles used by federal or state governments

Whenever a Federal motor vehicle safety standard established under this subchapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal standard. Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to motor vehicles or motor vehicle equipment procured for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

[*See main edition for text of* (e), (f)]

(g) Interstate motor carriers and carriers of explosives and other dangerous articles

In prescribing safety regulations covering motor vehicles subject to part II of the Interstate Commerce Act, as amended (49 U.S.C. 301 et seq.), or the Transportation of Explosives Act, as amended (18 U.S.C. 831-835), the Secretary shall not adopt or continue in effect any safety regulation which differs from a motor vehicle safety standard issued by the Secretary under this subchapter, except that nothing in this subsection shall be deemed to prohibit the Secretary from prescribing for any motor vehicle operated by a carrier subject to regulation under either or both of such Acts, a safety regulation which imposes a higher standard of performance subsequent to its manufacture than that required to comply with the applicable Federal standard at the time of manufacture.

[*See main edition for text of* (h) *and* (i)]

(Pub. L. 89-563, title I, § 103, Sept. 9, 1966, 80 Stat. 719; Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931; Pub. L. 93-492, title II, § 202, Oct. 27, 1974, 88 Stat. 1484; Pub. L. 94-346, §§ 2, 3, July 8, 1976, 90 Stat. 815.)

Codification

Subsecs. (a) and (d) are set out in this supplement to correct typographical error appearing in the main edition.

Transfer of Functions

"Secretary" was substituted for "Interstate Commerce Commission" in subsec. (g), following "(18 U.S.C. 831-835) the" and "to prohibit the" pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof, in prescribing safety regulations covering motor vehicles subject to part II of the Interstate Commerce Act, as amended (49 U.S.C. 301 et seq.), or the Transportation of Explosives Act, as amended (18 U.S.C. 831-835). See section 1655(e)(4), (6) of Title 49, Transportation.

§ 1393. Repealed. Pub. L. 93-492, title I, § 107(b), Oct. 27, 1974, 88 Stat. 1482

Section, Pub. L. 89-563, title I, § 104, Sept. 9, 1966, 80 Stat. 720; Pub. L. 93-492, title I, § 107(a), Oct. 27, 1974, 88 Stat. 1481, provided for the National Motor Vehicle Safety Advisory Council; subsec. (a) relating to establishment and membership of the Council, "representative of the general public", publication of names of members, and selection of Chairman; subsec. (b) relating to consultations with Secretary of Transportation; and subsec. (c) relating to compensation and travel expenses of members.

Effective Date of Repeal

Section 107(b) of Pub. L. 93-492 provided for repeal of section 1393 of this title effective Oct. 1, 1977.

§ 1410. Exemption from safety standards of motor vehicles

[*See main edition for text of* (a) *to* (f)]

(g) Definitions

For the purpose of this section, the term "low-emission motor vehicle" means any motor vehicle which—

(1) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 7521 of title 42 at the time of manufacture to that type of vehicle; and

(2) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 7521 of title 42 at the time of manufacture to that type of vehicle.

Codification

Subsec. (g) is set out in this supplement to reflect the current citation for section 202 of the Clean Air Act, which was reclassified from section 1857f-1 to section 7521 of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

CHAPTER 39—FAIR PACKAGING AND LABELING PROGRAM

§ 1456. Enforcement

[*See main edition for text of* (a), (b)]

(c) Imports

In the case of any imports into the United States of any consumer commodity covered by this chapter, the provisions of sections 1453 and 1454 of this title shall be enforced by the Secretary of the Treasury pursuant to section 381(a) and (b) of title 21.

CODIFICATION

Subsec. (c) is set out in this supplement to correct typographical error appearing in the main edition.

CHAPTER 40—DEPARTMENT OF COMMERCE

Sec.
1507b. Assistant Secretary of Commerce; appointment; compensation; duties [New].

§ 1507b. Assistant Secretary of Commerce; appointment; compensation; duties

There shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law as of November 12, 1977, one additional Assistant Secretary of Commerce who shall be appointed by the President, by and with the advice and consent of the Senate. Such Assistant Secretary shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

(Pub. L. 95-173, § 9(a), Nov. 12, 1977, 91 Stat. 1360.)

§ 1511. Bureaus in Department

TRANSFER OF FUNCTIONS

All functions of the Secretary of Commerce, the Department of Commerce, and officers and components of the Department of Commerce as they related to or were utilized by the Office of Energy Programs within the Department of Commerce, but limited to industrial energy conservation programs, were transferred to, and vested in, the Secretary of Energy as part of the creation of the Department of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See section 7157 of Title 42, The Public Health and Welfare.

REORGANIZATION PLAN NO. 4 OF 1970

Eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, as amended by Pub. L. 94-461, § 4(c)(1), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 95-219, § 3(a)(1), Dec. 28, 1977, 91 Stat. 1613.

* * * * *

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

* * * * *

SEC. 2. ESTABLISHMENT OF ADMINISTRATION

* * * * *

(e)(1) There shall be in the Administration a General Counsel and five Assistant Administrators, one of whom shall be the Assistant Administrator for Coastal Zone Management and one of whom shall be the Assistant Administrator for Fisheries. The General Counsel and each Assistant Administrator shall be appointed by the Secretary, subject to approval of the President, and shall be compensated at a rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(2) The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

(3) The Assistant Administrator for Coastal Zone Management shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(4) The Assistant Administrator for Fisheries shall be responsible for all matters related to living marine resources which may arise in connection with the conduct of the functions of the Administration.

* * * * *

§ 1511a. Repealed. Pub. L. 95-219, § 3(a)(2), Dec. 28, 1977, 91 Stat. 1613

Section, Pub. L. 94-370, § 15(a), July 26, 1976, 90 Stat. 1032, authorized the appointment and set forth the compensation level for an Associate Administrator for Coastal Zone Management.

CHAPTER 41—CONSUMER CREDIT PROTECTION

SUBCHAPTER V—DEBT COLLECTION PRACTICES [NEW]

Sec.
1692. Congressional findings and declaration of purpose.
1692a. Definitions.
1692b. Acquisition of location information.
1692c. Communication in connection with debt collection.
(a) Communication with the consumer generally.
(b) Communication with third parties.
(c) Ceasing communication.
(d) Definitions.
1692d. Harassment or abuse.
1692e. False or misleading representations.
1692f. Unfair practices.
1692g. Validation of debts.
1692h. Multiple debts.
1692i. Legal actions by debt collectors.
1692j. Furnishing certain deceptive forms.
1692k. Civil liability.
1692l. Administrative enforcement.
1692m. Reports to Congress by the Commission.
1692n. Relation to State laws.
1692o. Exemption for State regulation.

SUBCHAPTER I—CONSUMER CREDIT COST DISCLOSURE

§ 1601. Congressional findings and declaration of purpose

SHORT TITLE OF 1977 AMENDMENT

Section 801 of Pub. L. 90-321, as added by Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 874, provided that: "This title [enacting subchapter V of this chapter] may be cited as the 'Fair Debt Collection Practices Act'."

SUBCHAPTER II—RESTRICTIONS ON GARNISHMENT

§ 1673. Restriction on garnishment

[*See main edition for text of* (a)]

(b) Exceptions

(1) The restrictions of subsection (a) of this section do not apply in the case of

(A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.

(B) any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act [11 U.S.C. 1001 et seq.].

(C) any debt due for any State or Federal tax.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed—

(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

(c) Execution or enforcement of garnishment order or process prohibited

No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

(As amended Pub. L. 95-30, title V, § 501(e)(1)-(3), May 23, 1977, 91 Stat. 161, 162.)

References in Text

The Bankruptcy Act, referred to in subsec. (b)(1)(B), is act July 1, 1898, ch. 541, 30 Stat. 544 as amended. Chapter XIII of the Bankruptcy Act is classified to chapter 13 (§ 1001 et seq.) of Title 11, Bankruptcy. For complete classification of this Act to the Code, see Tables.

Amendments

1977—Subsec. (b). Pub. L. 95-30, § 501(e)(1), (2), designated existing provisions as par. (1) and existing pars. (1), (2), and (3) as subpars. (A), (B), and (C) thereof, substituted "for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review" for "of any court for the support of any person" in subpar. (A) as so redesignated, and added par. (2).

Subsec. (c). Pub. L. 95-30, § 501(e)(3), inserted ", and no State (or officer or agency thereof)," following "or any State".

Effective Date of 1977 Amendments

Section 501(e)(5) of Pub. L. 95-30 provided that: "The amendments made by this subsection [amending this section and section 1675 of this title] shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act [May 23, 1977]."

§ 1675. Exemption for State-regulated garnishments

The Secretary of Labor may by regulation exempt from the provisions of section 1673(a) and (b)(2) of this title garnishments issued under the laws of any State if he determines that the laws of that State provide restrictions on garnishment which are substantially similar to those provided in section 1673(a) and (b)(2) of this title.

(As amended Pub. L. 95-30, title V, § 501(e)(4), May 23, 1977, 91 Stat. 162.)

Amendments

1977—Pub. L. 95-30 substituted "section 1673(a) and (b)(2) of this title" for "section 1673(a) of this title" in two instances.

SUBCHAPTER III—CREDIT REPORTING AGENCIES

§ 1681a. Definitions; rules of construction

Section Referred to in Other Sections

This section is referred to in sections 1692d, 1692e of this title; title 26 section 7609.

§ 1681b. Permissible purposes of consumer reports

Section Referred to in Other Sections

This section is referred to in sections 1681a, 1681e, 1681f, 1692d of this title.

SUBCHAPTER V—DEBT COLLECTION PRACTICES [NEW]

§ 1692. Congressional findings and declaration of purpose

(a) There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

(b) Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

(c) Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

(d) Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

(Pub. L. 90-321, title VIII, § 802, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 874.)

EFFECTIVE DATE

Section 818 of Pub. L. 90-321, as added Pub. L. 95-109, provided that: "This title [this subchapter] takes effect upon the expiration of six months after the date of its enactment [Sept. 20, 1977], but section 809 [section 1692g of this title] shall apply only with respect to debts for which the initial attempt to collect occurs after such effective date."

SHORT TITLE

This subchapter known as the "Fair Debt Collection Practices Act", see Short Title of 1977 Amendment note set out under section 1601 of this title.

§ 1692a. Definitions

As used in this subchapter

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium.

(3) The term "consumer" means any natural person obligated or allegedly obligated to pay any debt.

(4) The term "creditor" means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

(5) The term "debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

(6) The term "debt collector" means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (G) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 1692f(6) of this title, such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests. The term does not include—

(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;

(D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;

(F) any attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client; and

(G) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

(7) The term "location information" means a consumer's place of abode and his telephone number at such place, or his place of employment.

(8) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

(Pub. L. 90-321, title VIII, § 803, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 875.)

§ 1692b. Acquisition of location information

Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall—

(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

(2) not state that such consumer owes any debt;

(3) not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of

such person is erroneous or incomplete and that such person now has correct or complete location information;

(4) not communicate by post card;

(5) not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt; and

(6) after the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

(Pub. L. 90-321, title VIII, § 804, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 876.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1692c, 1692d, 1692e of this title.

§ 1692c. Communication in connection with debt collection

(a) Communications with the consumer generally

Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antimeridian and before 9 o'clock postmeridian, local time at the consumer's location;

(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

(b) Communications with third parties

Except as provided in section 1692b of this title, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

(c) Ceasing communication

If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except—

(1) to advise the consumer that the debt collector's further efforts are being terminated;

(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.

If such notice from the consumer is made by mail, notification shall be complete upon receipt.

(d) Definitions

For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

(Pub. L. 90-321, title VIII, § 805, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 876.)

§ 1692d. Harassment or abuse

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of section 1681a(f) or 1681b(3) of this title.

(4) The advertisement for sale of any debt to coerce payment of the debt.

(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(6) Except as provided in section 1692b of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.

(Pub. L. 90-321, title VIII, § 806, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 877.)

§ 1692e. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in

connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.

(2) The false representation of—

(A) the character, amount, or legal status of any debt; or

(B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.

(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—

(A) lose any claim or defense to payment of the debt; or

(B) become subject to any practice prohibited by this subchapter.

(7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.

(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

(11) Except as otherwise provided for communications to acquire location information under section 1692b of this title, the failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose.

(12) The false representation or implication that accounts have been turned over to innocent purchasers for value.

(13) The false representation or implication that documents are legal process.

(14) The use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization.

(15) The false representation or implication that documents are not legal process forms or do not require action by the consumer.

(16) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency as defined by section 1681a(f) of this title.

(Pub. L. 90-321, title VIII, § 807, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 877.)

§ 1692f. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

(2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

(3) The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—

(A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;

(B) there is no present intention to take possession of the property; or

(C) the property is exempt by law from such dispossession or disablement.

(7) Communicating with a consumer regarding a debt by post card.

(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

(Pub. L. 90-321, title VIII, § 808, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 879.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1692a of this title.

§ 1692g. Validation of debts

(a) Notice of debt; contents

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(b) Disputed debts

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

(c) Admission of liability

The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

(Pub. L. 90-321, title VIII, § 809, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 879.)

EFFECTIVE DATE

Section applicable only with respect to debts for which the initial attempt to collect occurs after the effective date of this subchapter, which takes effect upon the expiration of six months after Sept. 20, 1977, see section 818 of Pub. L. 90-321, set out as an Effective Date note under section 1692 of this title.

§ 1692h. Multiple debts

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

(Pub. L. 90-321, title VIII, § 810, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 880.)

§ 1692i. Legal actions by debt collectors

(a) Any debt collector who brings any legal action on a debt against any consumer shall—

(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

(A) in which such consumer signed the contract sued upon; or

(B) in which such consumer resides at the commencement of the action.

(b) Nothing in this subchapter shall be construed to authorize the bringing of legal actions by debt collectors.

(Pub. L. 90-321, title VIII, § 811, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 880.)

§ 1692j. Furnishing certain deceptive forms

(a) It is unlawful to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating.

(b) Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 1692k of this title for failure to comply with a provision of this subchapter.

(Pub. L. 90-321, title VIII, § 812, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 880.)

§ 1692k. Civil liability

(a) Amount of damages

Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of such failure;

(2)(A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding $1,000; or

(B) in the case of a class action, (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed

the lesser of $500,000 or 1 per centum of the net worth of the debt collector; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

(b) Factors considered by court

In determining the amount of liability in any action under subsection (a) of this section, the court shall consider, among other relevant factors—

(1) in any individual action under subsection (a)(2)(A) of this section, the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional; or

(2) in any class action under subsection (a)(2)(B) of this section, the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's noncompliance was intentional.

(c) Intent

A debt collector may not be held liable in any action brought under this subchapter if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(d) Jurisdiction

An action to enforce any liability created by this subchapter may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

(e) Advisory opinions of Commission

No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the Commission, notwithstanding that after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(Pub. L. 90-321, title VIII, § 813, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 881.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1692j of this title.

§ 1692l. Administrative enforcement

(a) Federal Trade Commission

Compliance with this subchapter shall be enforced by the Commission, except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to another agency under subsection (b) of this section. For purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act [15 U.S.C. 41 et seq.], a violation of this subchapter shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce the provisions of this subchapter in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(b) Applicable provisions of law

Compliance with any requirements imposed under this subchapter shall be enforced under—

(1) section 1818 of title 12, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

(C) banks the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 1464(d) of title 12, section 1730 of title 12, and sections 1426(i) and 1437 of title 12, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

(3) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts;

(5) the Federal Aviation Act of 1958 [49 U.S.C. 1301 et seq.], by the Civil Aeronautics Board with respect to any air carrier or any foreign air carrier subject to that Act; and

(6) the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C. 226, 227]), by the Secretary of Agriculture with respect to any activities subject to that Act.

(c) Agency powers

For the purpose of the exercise by any agency referred to in subsection (b) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b) of this section, each of the agencies referred to in that subsection may exercise,

for the purpose of enforcing compliance with any requirement imposed under this subchapter any other authority conferred on it by law, except as provided in subsection (d) of this section.

(d) Rules and regulations

Neither the Commission nor any other agency referred to in subsection (b) of this section may promulgate trade regulation rules or other regulations with respect to the collection of debts by debt collectors as defined in this subchapter.

(Pub. L. 90-321, title VIII, § 814, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 881.)

REFERENCES IN TEXT

The Federal Trade Commission Act referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

The Federal Credit Union Act, referred to in subsec. (b)(3), is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended, which is classified generally to chapter 14 (§ 1751 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Acts to regulate commerce, referred to in subsec. (b)(4), are known as the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended and supplemented) which is classified generally to chapters 1, 8, 12, 13, and 19 (§§ 1 et seq., 301 et seq., 901 et seq., 1001 et seq., and 1231 et seq., respectively) of Title 49, Transportation. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act set out under section 27 of Title 49 and Tables.

The Federal Aviation Act of 1958, referred to in subsec. (b)(5), is Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, as amended, which is classified principally to chapter 20 (§ 1301 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 49 and Tables.

The Packers and Stockyards Act, 1921, referred to in subsec. (b)(6), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, as amended, which is classified generally to chapter 9 (§ 181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1692m of this title.

§ 1692m. Reports to Congress by the Commission

(a) Not later than one year after the effective date of this subchapter and at one-year intervals thereafter, the Commission shall make reports to the Congress concerning the administration of its functions under this subchapter, including such recommendations as the Commission deems necessary or appropriate. In addition, each report of the Commission shall include its assessment of the extent to which compliance with this subchapter is being achieved and a summary of the enforcement actions taken by the Commission under section 1692*l* of this title.

(b) In the exercise of its functions under this subchapter, the Commission may obtain upon request the views of any other Federal agency which exercises enforcement functions under section 1692*l* of this title.

(Pub. L. 90-321, title VIII, § 815, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 882.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (a), is the date occuring upon the expiration of six months after Sept. 20, 1977. See section 818 of Pub. L. 90-321, set out as an Effective Date note under section 1692 of this title.

§ 1692n. Relation to State laws

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection provided by this subchapter.

(Pub. L. 90-321, title VIII, § 816, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 883.)

§ 1692*o*. Exemption for State regulation

The Commission shall by regulation exempt from the requirements of this subchapter any class of debt collection practices within any State if the Commission determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this subchapter, and that there is adequate provision for enforcement.

(Pub. L. 90-321, title VIII, § 817, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 883.)

CHAPTER 46—MOTOR VEHICLE INFORMATION AND COST SAVINGS

SUBCHAPTER I—BUMPER STANDARDS

§ 1916. Prohibited acts

(a) Failure to comply with bumper standard, rule, recordkeeping, inspection, or certification requirements

No person shall—

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the date any applicable Federal bumper standard takes effect under this subchapter unless it is in conformity with such standard;

(2) fail to comply with any rule prescribed by the Secretary under this subchapter;

(3) fail to keep specified records or refuse access to or copying of records, or fail to make reports or provide items or information, or fail or refuse to permit entry or inspection, as required under this subchapter or any rule issued thereunder; or

(4)(A) fail to furnish a certificate required by section 1915(c) of this title, or (B) issue a certificate required by such subsection to the effect that a passenger motor vehicle or passenger motor vehicle equipment conforms to all applicable bumper standards, if such person knows, or in the exercise of due care has reason to know, that such certificate is false or misleading in a material respect.

[*See main edition for text of* (b), (c)]

CODIFICATION

Subsec. (a) is set out in this supplement to correct typographical error appearing in the main edition.

SUBCHAPTER III—DIAGNOSTIC INSPECTION DEMONSTRATION PROJECTS

§ 1963a. Duties of Secretary

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER V—IMPROVING AUTOMOTIVE EFFICIENCY

§ 2002. Average fuel economy standards

[*See main edition for text of* (a) *to* (c)]

(d) Application for modification of standards

[*See main edition for text of* (1), (2)]

(3) For purposes of this subsection:

[*See main edition for text of* (A) *to* (C)]

(D) Each of the following is a category of Federal standards;

(i) Emissions standards under section 202 of the Clean Air Act [42 U.S.C. 7521] and emissions standards applicable by reason of section 209(b) of such Act [42 U.S.C. 7543(b)].

(ii) Motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1381 et seq.].

(iii) Noise emission standards under section 6 of the Noise Control Act of 1972 [42 U.S.C. 4905].

(iv) Property loss reduction standards under subchapter I of this chapter.

[*See main edition for text of* (E), (4), *and* (e) *to* (g)]

(h) Consultation with Secretary of Energy; impact of proposed standards upon conservation goals; comments

The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section. The Secretary shall, before issuing any notice proposing under subsection (a), (b), (d), or (f) of this section, to establish, reduce, or amend an average fuel economy standard, provide the Secretary of Energy with a period of not less than ten days from the receipt of the notice during which the Secretary of Energy may, upon concluding that the proposed standard would adversely affect the conservation goals set by the Secretary of Energy, provide written comments to the Secretary concerning the impacts of the proposed standard upon those goals. To the extent that the Secretary does not revise the proposed standard to take into account any comments by the Secretary of Energy regarding the level of the proposed standard, the Secretary shall include the unaccommodated comments in the notice.

(i) Notification of Secretary of Energy; comments

The Secretary shall, before taking action on any final standard under this section or any modification of or exemption from such standard, notify the Secretary of Energy and provide such Secretary with a reasonable period of time to comment thereon.

(As amended Pub. L. 95-91, title III, § 305, Aug. 4, 1977, 91 Stat. 580.)

CODIFICATION

Subsec. (d)(3)(D) is set out in this supplement to reflect the current citations for sections 202 and 209 of the Clean Air Act, which were reclassified from sections 1857f-1 and 1857f-6a to sections 7521 and 7543, respectively, of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

Subsecs. (h) and (i) of this section were in the original designated as (g) and (h), respectively, and have been editorially changed to conform to the apparent intent of Congress.

AMENDMENTS

1977—Subsecs. (h), (i). Pub. L. 95-91 added subsecs. (h) and (i).

§ 2003. Calculation of average fuel economy

[*See main edition for text of* (a) *to* (c)]

(d) Testing and calculation procedures

(1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 2006 of this title) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act [42 U.S.C. 7525]. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary.

[*See main edition for text of* (2), (3), *and* (e), (f)]

CODIFICATION

Subsec. (d)(1) is set out in this supplement to reflect the current citation for section 206 of the Clean Air Act, which was reclassified from section 1857f-5 to sec-

tion 7525 of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

§ 2006. Labeling

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 47—CONSUMER PRODUCT SAFETY

§ 2080. Limitations on Consumer Product Safety Commission's jurisdiction

The Commission shall have no authority under this chapter to regulate any risk of injury associated with a consumer product if such risk could be eliminated or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.]; the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]; or the Clean Air Act [42 U.S.C. 7401 et seq.]. The Commission shall have no authority under this chapter to regulate any risk of injury associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355(1) and (2) of the Public Health Service Act [42 U.S.C. 263c(1) and (2)]) if such risk of injury may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act. [42 U.S.C. 263b et seq.].

(Pub. L. 92-573, § 31, Oct. 27, 1972, 86 Stat. 1232.)

REFERENCES IN TEXT

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Section is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

CHAPTER 52—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION

§ 2502. Definitions

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 2503. Duties of the Administrator

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2502, 2504, 2507 of this title; title 42 section 2473.

§ 2504. Coordination between the Administrator and other agencies

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2507 of this title; title 42 section 2473.

§ 2505. Research and development

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2506 of this title; title 42 section 2473.

§ 2506. Demonstrations

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2510, 2512, 2513 of this title; title 42 section 2473.

§ 2507. Contracts

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration and the Federal Energy Administration were terminated and functions vested by law in the respective Administrators thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2511 of this title; title 42 section 2473.

§ 2508. Encouragement and protection of small business

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2473.

§ 2509. Loan guarantees

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2473.

§§ 2510 to 2514

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 53—TOXIC SUBSTANCES CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 4365, 7458.

§ 2608. Relationship to other Federal laws

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7458.

§ 2617. Preemption

(a) Effect on State law

[*See main edition for text of (1)*]

(2) Except as provided in subsection (b) of this section—

[*See main edition for text of (A)*]

(B) if the Administrator prescribes a rule or order under section 2604 or 2605 of this title (other than a rule imposing a requirement described in subsection (a)(6) of section 2605 of this title) which is applicable to a chemical substance or mixture, and which is designed to protect against a risk of injury to health or the environment associated with such substance or mixture, no State or political subdivision of a State may, after the effective date of such requirement, establish or continue in effect, any requirement which is applicable to such substance or mixture, or an article containing such substance or mixture, and which is designed to protect against such risk unless such requirement (i) is identical to the requirement prescribed by the Administrator, (ii) is adopted under the authority of the Clean Air Act [42 U.S.C. 7401 et seq.] or any other Federal law, or (iii) prohibits the use of such substance or mixture in such State or political subdivision (other than its use in the manufacture or processing of other substances or mixtures).

[*See main edition for text of (b)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(2)(B), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (a)(2)(B) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

TITLE 16—CONSERVATION

Chap.		Sec.
40	Soil and Water Resources Conservation [New]	2001

CHAPTER 1—THE NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER X—NORTH CASCADES NATIONAL PARK

§ 90d-4. Federal Power Act administrative jurisdiction unaffected

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER XXIX—CANYONLANDS NATIONAL PARK

§ 271a. Acquisition of lands; authority of Secretary; exchange of property; cash equalization payments; transfer from Federal agency to administrative jurisdiction of Secretary; lands subject to reclamation and power withdrawals as part of park

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER LVI—CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

§ 410y. Definitions

DEDICATION TO JUSTICE WILLIAM O. DOUGLAS

Pub. L. 95-11, Mar. 15, 1977, 91 Stat. 21, provided:

"That the canal and towpath of the Chesapeake and Ohio Canal National Historical Park are hereby dedicated to Justice William O. Douglas in grateful recognition of his long outstanding service as a prominent American conservationist and for his efforts to preserve and protect the canal and towpath from development.

"Sec. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs or other means as will appropriately inform the public of the contributions of Justice William O. Douglas.

"Sec. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the exterior boundaries of the Chesapeake and Ohio Canal National Historical Park, an appropriate memorial to Justice William O. Douglas. Such memorial shall be of such design and be located at such place within the park as the Secretary shall determine.

"Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

SUBCHAPTER LXI—NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

§ 431. National monuments; reservation of lands; relinquishment of private claims

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 432, 434, 1133 of this title; title 43 section 1714.

§ 432. Permits to examine ruins, excavations, and gathering of objects; regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 434, 1133 of this title; title 20 section 78a; title 43 section 1714.

§ 433. American antiquities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 432, 434, 1133 of this title; title 20 section 78a; title 43 section 1714.

SUBCHAPTER LXIX—OUTDOOR RECREATION PROGRAMS

PART B—LAND AND WATER CONSERVATION FUND

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1c, 469h, 470b, 1278, 1534 of this title; title 7 section 1011; title 40 section 885; title 40 App. section 214; title 42 sections 1962c-2, 3188a, 3534; title 43 section 1712.

§ 460*l*-5. Land and water conservation funds; establishment; covering certain revenues and collections into fund

During the period ending September 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the "fund", the following revenues and collections:

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Other revenues

(1) In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for fiscal year 1977, and $900,000,000 for fiscal year 1978 and for each fiscal year thereafter through September 30, 1989.

[*See main edition for text of* (*2*)]

(As amended Pub. L. 95-42, § 1(1), June 10, 1977, 91 Stat. 210.)

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-42 substituted "and $900,000,000 for fiscal year 1978" for "$600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*-7, 460*l*-10 of this title; title 40 section 885.

§ 460*l*-7. Allocation of land and water conservation fund for State and Federal purposes

There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes. Those appropriations from the fund up to and including $600,000,000 in fiscal year 1978 and up to and including $750,000,000 in fiscal year 1979 shall continue to be allocated in accordance with this section. There shall be credited to a special account within the fund $300,000,000 in fiscal year 1978 and $150,000,000 in fiscal year 1979 from the amounts authorized by section 460*l*-5 of this title. Amounts credited to this account shall remain in the account until appropriated. Appropriations from the special account shall be available only with respect to areas existing and authorizations enacted prior to the convening of the Ninety-fifth Congress, for acquisition of lands, waters, or interests in lands or waters within the exterior boundaries, as aforesaid, of—

(1) the national park system;

(2) national scenic trails;

(3) the national wilderness preservation system;

(4) federally administered components of the National Wild and Scenic Rivers System; and

(5) national recreation areas administered by the Secretary of Agriculture.

(As amended Pub. L. 95-42, § 1(2), June 10, 1977, 91 Stat. 210.)

REFERENCES IN TEXT

The convening of the Ninety-fifth Congress, referred to in text, took place on Jan. 4, 1977.

AMENDMENTS

1977—Pub. L. 95-42 added last four sentences providing that appropriations from the fund up to and including $600,000,000 in fiscal year 1978 and up to and including $750,000,000 in fiscal year 1979 continue to be allocated in accordance with this section, that there be credited to a special account within the fund $300,000,000 in fiscal year 1978 and $150,000,000 in fiscal year 1979 from the amounts authorized by section 460*l*-5 of this title, that amounts credited to this account remain in the account until appropriated, and that appropriations from the special account be available only with respect to areas existing and authorizations enacted prior to the convening of the Ninety-fifth Congress, for acquisition of lands, waters, or interests in lands or waters within the exterior boundaries of the national park system, national scenic trails, the national wilderness preservation system, federally administered components of the National Wild and Scenic Rivers System, and national recreation areas administered by the Secretary of Agriculture.

§ 460*l*-8. Financial assistance to States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460*l*-17 of this title; title 42 sections 3338, 4519.

§ 460*l*-9. Allocation of land and water conservation fund moneys for Federal purposes

(a) Allowable purposes and subpurposes; acquisition of land and waters and interests therein; offset for specified capital costs

Moneys appropriated from the fund for Federal purposes shall, unless otherwise alloted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

[*See main edition for text of* (*1*) *and* (*2*)]

(3) Appropriations allotted for the acquisition of land, waters, or interests in land or waters as set forth under the headings **"National Park System; Recreation Areas"** and **"National Forest System"** in paragraph (1) of this subsection shall be available therefor notwithstanding any statutory ceiling on such appropriations contained in any other provision of law enacted prior to the convening of the Ninety-fifth Congress; except that for any such area expenditures may not exceed a statutory ceiling during any one fiscal year by 10 per centum of such ceiling or $1,000,000, whichever is greater. The Secretary of the Interior shall, prior to the expenditure of funds which would cause a statutory ceiling to be exceeded by $1,000,000 or more, and with respect to each expenditure of $1,000,000 or more in excess of such a ceiling, provide written notice of such proposed expenditure not less than thirty calendar days in advance to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(b) Acquisition restrictions

Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law: *Provided, however,* That appropriations from the fund may be used for preacquisition

work in instances where authorization is imminent and where substantial monetary savings could be realized.

(c) Boundary changes; donations

Whenever the Secretary of the Interior determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of an area of the national park system, he may, following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of his intention to do so, and by publication of a revised boundary map or other description in the Federal Register, (i) make minor revisions of the boundary of the area, and moneys appropriated from the fund shall be available for acquisition of any lands, waters, and interests therein added to the area by such boundary revision subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area: *Provided, however,* That such authority shall expire ten years from the date of enactment of the authorizing legislation establishing such boundaries; and (ii) acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters, or interests therein adjacent to such area, except that in exercising his authority under this clause (ii) the Secretary may not alienate property administered as part of the national park system in order to acquire lands by exchange, the Secretary may not acquire property without the consent of the owner, and the Secretary may acquire property owned by a State or political subdivision thereof only by donation. Prior to making a determination under this subsection, the Secretary shall consult with the duly elected governing body of the county, city, town, or other jurisdiction or jurisdictions having primary taxing authority over the land or interest to be acquired as to the impacts of such proposed action, and he shall also take such steps as he may deem appropriate to advance local public awareness of the proposed action. Lands, waters, and interests therein acquired in accordance with this subsection shall be administered as part of the area to which they are added, subject to the laws and regulations applicable thereto.

(As amended Pub. L. 95-42, § 1(3)-(5), June 10, 1977, 91 Stat. 210, 211.)

REFERENCES IN TEXT

The convening of the Ninety-fifth Congress, referred to in subsec. (a)(3), took place on Jan. 4, 1977.

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-42, § 1(3), added subsec. (a)(3).

Subsec. (b). Pub. L. 95-42, § 1(4), added proviso that appropriations from the fund may be used for preacquisition work in instances where authorization is imminent and where substantial monetary savings could be realized.

Subsec. (c). Pub. L. 95-42, § 1(5), added subsec. (c).

PART C—WATER RESOURCES PROJECTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 43 sections 1527, 1541.

§ 460*l*-14. Facilities of project modifications to be provided without written indication of intent

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*-17, 460*l*-18 of this title.

SUBCHAPTER LXXI—BUFFALO NATIONAL RIVER

§ 460m-11. Water resource projects

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER LXXXIX—BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA

§ 460ee. Establishment of National Area

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER CI—HELLS CANYON NATIONAL RECREATION AREA

§ 460gg-2. Federal power and water resources projects; license and other restrictions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 1A—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

§ 461. Declaration of national policy

NATIONAL HISTORIC SITES

Historic site	*Date designated*
* * * * *	
Eleanor Roosevelt National Historic Site, New York (91 Stat. 171)	May 26, 1977
* * * * *	

§ 470i. Advisory Council on Historic Preservation; establishment; membership; term; vacancies; designation of Chairman and Vice Chairman; quorum

(a) Establishment; composition

There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the "Council") which shall be composed of twenty-nine members as follows:

[*See main edition for text of (1) to (8)*]

(9) The Director of the International Communication Agency;

[*See main edition for text of (10) to (18); (b) to (f)*]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(15), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (a)(9) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(15), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

CHAPTER 2—THE NATIONAL FORESTS

SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

CROSS REFERENCE

National Forest System, see section 1609 of this title.

§ 473. Revocation, modification, or vacation of orders or proclamations establishing national forests

CROSS REFERENCES

Prohibition on return to public domain of land reserved or withdrawn from the public domain as national forests except by act of Congress, see section 1609 of this title.

§ 482b. Mount Hood National Forest; mining rights

BULL RUN WATERSHED MANAGEMENT UNIT

Pub. L. 95-200, Nov. 23, 1977, 91 Stat. 1425, provided that:

"PREAMBLE

"The Congress finds that an area of land in the State of Oregon known variously as the Bull Run National Forest and the Bull Run Forest Reserve is presently the source of the sole domestic water supply for the city of Portland, Oregon (hereinafter called the 'city') and other local governmental units and persons in the Portland metropolitan area, reserved for the city by a Presidential proclamation issued in 1892 and furnishing an extremely valuable resource of pure clear raw potable water, the continued production of which should be the principal management objective in the area hereinafter referred to as 'the unit'; that the said area is now managed under terms of a Federal court decree issued pursuant to turn of the century law which does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the resources contained therein.

"DESIGNATION OF UNIT

"Section 1. There is hereby established, subject to valid existing rights, a special resources management unit within the Mount Hood National Forest, State of Oregon, comprising approximately 95,382 acres as depicted on a map dated April 1977, and entitled 'Bull Run Watershed Management Unit, Mount Hood National Forest', which is on file and available for public inspection in the offices of the Chief, and the Regional Forester—Pacific Northwest Region, Forest Service, Department of Agriculture, minor adjustments in the boundaries of which may be made from time to time by the Secretary of Agriculture (hereinafter the 'Secretary') after consultation with the city and appropriate public notice and hearings.

"MANAGEMENT

"Sec. 2. (a) The unit and the renewable resources therein, shall be administered as a watershed by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to National Forest System lands except to the extent that any management plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2(b) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights-of-way, or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by application of different techniques or prohibitions of one or more such practices or uses: *Provided, however,* That use of such water for the production of energy and the transmission of such energy through and over the unit are deemed consistent with the purposes of this Act and the rights-of-way heretofore granted to Bonneville Power Administration by the Forest Service through and over the unit are validated and confirmed and deemed consistent with the purposes of this Act.

"(b) The policy set forth in subsection (a) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 [6] of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604), through the maintenance of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the city. In the development and revision of land management plans for the unit, the Secretary, except as otherwise provided in section 2(a) hereof, shall provide for public participation and shall consult and coordinate with appropriate officials and advisors of the city, and shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other

descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the city, which standards shall be substantially based on and shall reflect a quality of water not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act [Nov. 23, 1977], but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration, or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena, fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

"(c) The Secretary or his representative shall, upon request, and at least annually, meet with appropriate officials of the city for the purpose of reviewing planned management programs and the impact thereof on the quality and quantity of the water produced on the unit and assuring that their respective management and operational activities within the unit are appropriately coordinated. The Secretary shall negotiate in good faith cooperative agreements with appropriate officials of the city to effectuate activity coordination.

"(d) In the event there is disagreement between the city and the Secretary with respect to the development or revision of the water quality standards provided for herein, or with respect to the effect or the significance of such effect of one or more proposed or existing programs, practices, uses, regulations, or boundary adjustments (except as otherwise specifically provided for herein), on the quantity of the water produced on said unit, or on compliance with the water quality standards referred to in section 2(a) and (b) hereof and, therefore, with respect to the necessity for an alteration or prohibition of any such program, practice, use, regulation, or boundary adjustment as required in section 2(a) hereof, an arbitration board for resolving such disagreements shall be established. The Secretary and the city shall, each, forthwith appoint one member to such board and those two members shall select a third. In the event agreement cannot be reached on the third member within seven days after the appointment of the first two, the third member shall be appointed by the presiding judge of the United States District Court for the District of Oregon within seven days after being notified of such disagreement by either of the first two members. All of said members shall be qualified to make a scientific determination of the facts. The contentions of the city and the Secretary shall be submitted to the board in the form of written contentions of fact together with the evidence and analysis that tends to support the position being presented. The board shall forthwith consider and decide, on a scientific basis, the issues in disagreement by majority vote, taking into consideration the evidence and data presented by the parties and such other tests and data which the board by majority vote may require. The decision of such board shall be in the form of written findings of fact and conclusions based thereon and shall be final and binding on the parties. The Secretary and the city shall compensate their designees and share equally the compensation of the third member, and shall provide such technical and administrative support as required.

"(e) The Secretary is authorized, after consultation with the city, to promulgate regulations for controlling entry into the unit by all persons including but not limited to—

"(1) employees or contractors of the city engaged in the inspection, maintenance, construction, or improvement of the city's facilities;

"(2)(i) Federal, State, and local government officers and (ii) employees thereof acting in an official capacity;

"(3) Federal, State, and local government permittees and contractors conducting authorized activities;

"(4) members of advisory groups formed pursuant to this Act or ordinances of the city in the performance of their official duties:

Provided, That no regulation promulgated pursuant to this subsection shall prohibit ingress or egress to non-Federal lands or to authorized occupancies on, or uses of, Federal lands: *Provided further*, That the Secretary may independently and directly prohibit or restrict all entry into the unit during fire or other emergencies as he may determine.

"EFFECT ON OTHER LAWS

"Sec. 3. (a) Nothing in this Act shall terminate or affect any lease, permit, contract, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act [Nov. 23, 1977] and otherwise valid except for the provisions of section 1862 of title 18 of the United States Code.

"(b) Nothing in this Act shall in any way affect any law governing appropriation or use of, or Federal right to, water on National Forest System lands; or as expanding or diminishing Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control.

"(c) Section 1862 of title 18 of the United States Code is hereby repealed.

"(d) Except as otherwise provided for herein, this Act shall take precedence over and supersede all State and local laws dealing with or affecting the subject matter of this Act.

"(e) Challenge to actions taken by any governmental unit or official under the provisions of this Act shall not be sustained by any court except upon a showing or arbitrary, unreasonable, capricious, or illegal action or an absence of substantial good faith compliance with the procedural provisions hereof substantially prejudicing the rights of an interested party."

§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National

Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1908, ch. 192, 35 Stat. 260; Mar. 1, 1911, ch. 186, § 13, 36 Stat. 963; June 30, 1914, ch. 131, 38 Stat. 441; Sept. 21, 1944, ch. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, ch. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, Pub. L. 94-588, § 16, 90 Stat. 2961.)

CODIFICATION

Section is set out in this supplement to restore reference to Territories which had been omitted by the original codifiers.

PRIOR PROVISIONS

Similar prior provisions were contained in act May 23, 1908, ch. 192, 35 Stat. 260.

§ 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose

ACT REFERRED TO IN OTHER SECTIONS

The Multiple-Use Sustained-Yield Act of 1960 is referred to in sections 472a, 670h, 1133, 1600, 1602, 1604, 1607 of this title; title 30 section 1272.

§ 532. Roads and trails system; Congressional findings and declaration of policy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 533, 534, 536, 1608 of this title; title 43 section 1770.

§ 538. User fees fund for delayed payments to grantors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 533, 534, 536, 1608 of this title; title 43 section 1770.

CHAPTER 3—FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT

SUBCHAPTER III—RESEARCH PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 7 sections 390b, 450i, 3261.

§ 582a-2. Authorization of appropriations; other allotments and grants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 390c.

CHAPTER 3B—SOIL CONSERVATION

Sec.

590q-3. Critical lands resource conservation program in Great Plains area [New].
(a) Authorization for program.
(b) Terms of agreements with owners or operators.
(c) Annual adjustment payments.
(d) Termination of agreements.
(e) Preservation of cropland, crop acreage, and allotment history.
(f) Utilization of Federal and non-Federal offices.
(g) Program payments.
(h) Tenants and sharecroppers.
(i) Rules and regulations.
(j) Authorization of appropriations; utilization of Commodity Credit Corporation.

§ 590e-1. Limitations on cost of construction, purchase, or improvement of buildings for Soil Conservation Service

REPEATED

Pub. L. 95-97, title II, § 201, Aug. 12, 1977, 91 Stat. 821.

§ 590e-2. Employment of local engineers

REPEATED

Pub. L. 95-97, title II, § 201, Aug. 12, 1977, 91 Stat. 822.

§ 590h. Payments and grants of aid

[*See main edition for text of* (*a*)]

(b) Conservation and environmental assistance

The Secretary is authorized to carry out the policy and purposes specified in section 590g(a) of this title by providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures. Eligibility for financial assistance shall be based upon the existence of a conservation or environmental problem which reduces the productive capacity of the Nation's land and water resources or causes degradation of environmental quality.

The amount of financial assistance to be provided shall be that portion of the cost of installing conservation and environmental enhancement measures which the Secretary determines is necessary. In determining the level of payment, consideration will be given to (A) the amount of expected conservation or environmental benefit accruing to society, (B) the total cost of carrying out the needed measures, (C) the degree to which appropriate conservation or pollution abatement practices will be applied in the absence of financial assistance, and (D) in order to avoid duplication of assistance, the degree to which the agricultural producer benefits from other public programs for conservation and environmental enhancement.

The Secretary, in formulating the national program, shall take into consideration (A) the need to control erosion and sedimentation from agricultural land and to conserve the water resources on such land, (B) the need to control pollution from animal wastes, (C) the need to facilitate sound resources management systems through soil and water conservation, (D) the need to encourage voluntary compliance by agricultural producers with Federal and State requirements to solve point and nonpoint sources of pollution, (E) national priorities reflected in

the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other congressional and administrative actions, (F) the degree to which the measures contribute to the national objective of assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy, and (G) the type of conservation measures needed to improve water quality in rural America.

In carrying out the provisions of this section in the States of the Union, except Alaska, the Secretary is directed to utilize the services of local and State committees selected as hereinafter provided. The Secretary shall designate local administrative areas as units for administration of programs under this section. No such local area shall include more than one county or parts of different counties. Farmers within any such local administrative area, and participating or cooperating in programs administered within such area, shall elect annually from among their number a local committee of not more than three members for such area. The members of the local committees shall, in a county convention, nominate and elect a county committee which shall consist of three members who are farmers in the county. At the first county convention held on or after January 1, 1965, one member of the county committee shall be elected for one year; one member shall be elected for two years; and one member shall be elected for three years. Thereafter, each member of a county committee shall be elected for a term of three years. No member of the county committee shall be elected for more than three consecutive terms (exclusive of any term which began prior to January 1, 1965). The local committee shall select a secretary and may utilize the county agricultural extension agent for such purpose. The county committee shall select a secretary who may be the county agricultural extension agent. If such county agricultural extension agent shall not have been elected secretary of such committee, he shall be ex officio a member of the county committee. The county agricultural extension agent shall not have the power to vote. In any county in which there is only one local committee the local committee shall also be the county committee. In each State there shall be a State committee for the State composed of not less than three or more than five farmers who are legal residents of the State and who are appointed by the Secretary. The State director of the Agricultural Extension Service shall be ex officio a member of such State committee. The ex officio members of the county and State committees shall be in addition to the number of members of such committees hereinbefore specified. The Secretary shall make such regulations as are necessary relating to the selection and exercise of the functions of the respective committees, and to the administration, through such committees, of such programs. In carrying out the provisions of this section, the Secretary shall, as far as practicable, protect the interests of tenants and sharecroppers; is authorized to utilize the agricultural extension service and other approved agencies; shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress and as will tend to promote efficient methods of marketing and distribution; shall not have power to acquire any land or any right or interest therein; shall, in every practicable manner, protect the interests of small producers; and shall in every practical way encourage and provide for soil-conserving and soil-rebuilding practices rather than the growing of soil-depleting crops. Rules and regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, wherever practicable, they shall be classified on two bases: (a) Soil-depleting crops and practices, (b) soil-building crops and practices.

Notwithstanding any other provision of law, in making available conservation materials consisting of seeds, seed inoculants, fertilizers, liming and other soil-conditioning materials, trees, or plants, or in making available soil-conserving and soil-building services or pollution prevention or abatement aids, to agricultural producers under this subsection, the Secretary may make payments, in advance of determination of performance by the producers, to persons who will purchase orders covering approved conservation materials or covering soil-conserving or soil-building services or pollution prevention or abatement aids, furnished to producers, or who render services to the Secretary in delivering to producers approved conservation materials, for the carrying out, by the producers, of soil-building or soil-conserving practices or pollution prevention or abatement practices approved by the Secretary. The price at which purchase orders for any conservation materials or services are filled may be limited to a fair price fixed in accordance with regulations prescribed by the Secretary.

Appropriations are authorized for the purchase in advance of the program year for which the appropriation is made of seeds, fertilizers, lime, trees, or any other farming materials or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out farming practices approved by the Secretary in programs under this chapter; for the reimbursement of any Federal, State, or local government agency for fertilizers, seeds, lime, trees, or other farming materials, or any soil-terracing services, furnished by such agency; and for the payment of all expenses necessary in making such grants, including all or part of the costs incident to the delivery thereof.

In carrying out the purposes of subsection (a) of section 590g of this title, the Secretary may enter into agreements with agricultural producers for periods not to exceed ten years, on such terms and conditions as the Secretary deems desirable, creating obligations in advance of appropriations not to exceed such amounts as may be specified in annual appropriation Acts. Such agreements (i) shall be based on conservation plans approved by the soil and water conservation district or districts in which the lands described in the agreements are situated, and

(ii) may be modified or terminated by mutual consent if the Secretary determines such action would be in the public interest. The Secretary also may terminate agreements if he determines such action to be in the national interest and provides public notice in ample time to give producers a reasonable opportunity to make arrangements for appropriate changes in the use of their land.

[*See main edition for text of* (c) *and* (d)]

(e) Distribution of payments among landlords, tenants, and sharecroppers

Payments made by the Secretary under subsection (b) of this section to agricultural producers shall be divided among landlords, tenants, and sharecroppers in proportion to the extent such landlords, tenants, and sharecroppers contribute to the cost of carrying out the conservation or environmental enhancement measures. The maximum payment which may be made to any person shall be determined by the Secretary.

Persons who carry out farming operations as tenants or sharecroppers on cropland owned by the United States Government and who comply with the terms and conditions of the conservation program, formulated pursuant to this section, and sections 590g, 590i, and 590j to 590q of this title, shall be entitled to apply for and receive payments, or to retain payments heretofore made, for their participation in said program to the same extent as other producers. Persons who carry out conservation practices on federally owned noncropland which directly conserve or benefit nearby or adjoining privately owned lands of such persons and who maintain and use such Federal land under agreement with the Federal agency having jurisdiction thereof and who comply with the terms and conditions of the agricultural conservation program formulated pursuant to this section, and sections 590g, 590i, and 590j to 590q of this title, shall be entitled to apply for and receive payments under such program to the same extent as other producers.

[*See main edition for text of* (f) *and* (g)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1501(a), 91 Stat. 1019.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-113, § 1501(a)(1), (2), specified that financial assistance be provided to agricultural producers for carrying out enduring conservation and environmental enhancement measures, that eligibility for financial assistance be determined by the existence of conservation or environmental problems that reduce the productive capacity of the land and water or that cause environmental degradation, that financial assistance be a portion of the cost of the installation of conservation and environmental enhancement measures, that the Secretary of Agriculture be given discretion to set the level of payment based on a number of considerations relating to the level and distribution of benefits and costs accruing from the conservation problem and the applied remedy including the level of expected benefits to society, the total cost of the conservation practice, the degree to which the farmer benefits from other conservation programs, and the degree to which conservation would be applied in the absence of financial assistance, and that the Secretary be required to consider national and local needs and priorities in developing a national cost-share assistance program.

Subsec. (e). Pub. L. 95-113, § 1501(a)(3), struck out the first three pars. which related to allotment and production adjustment activities and for provisions making small cost-share payments, and substituted a new par. authorizing the Secretary to establish a payment limitation. The first three pars. were deemed by the codifiers to constitute the first par., the flush sentence at the end of the first par., and the second par. to reflect the probable intent of Congress. See pp. 192, 193, 400, 401 of Senate Report 95-180.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590g, 590h-4, 590i, 590*l*, 590m, 590n, 590o, 590p, 590q-3, 1507, 1508 of this title; title 5 sections 3502, 5307, 5334, 5595, 6312, 8331, 8332, 8701, 8901; title 7 sections 1301, 1314c, 1330, 1388, 1391, 1392, 1441, 1444, 1444b, 1838; title 12 section 1150a; title 40 app. section 203.

§ 590o. Authorization of appropriations; distribution of appropriated funds

To enable the Secretary of Agriculture to carry out the purposes of sections 590g and 590h of this title there is authorized to be appropriated for any fiscal year not exceeding $500,000,000. The amount appropriated shall be available until expended. A specified amount or percentage of the appropriation shall be designated for long-term agreements based on farm and ranch conservation plans approved by local conservation districts, where such districts are organized. The Secretary shall distribute the funds available for financial assistance among the several States in accordance with their conservation needs, as determined by the Secretary.

Notwithstanding the foregoing provisions of this section and the provisions of section 590g(g) of this title, programs of soil-building practices, soil- and water-conserving practices, and agriculture-related pollution prevention and abatement practices shall be based on a distribution of the funds available for payments and grants among the several States in accordance with their conservation needs, as determined by the Secretary, except that the proportion allocated to any State shall not be reduced by more than 15 per centum from the distribution of such funds for the next preceding program year. In carrying out such programs, the Secretary shall give particular consideration to conservation problems on farm lands diverted from crops under acreage allotment programs and to the maintenance of a proper balance be-

tween soil conserving and soil depleting crops on the farm.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1501(b), 91 Stat. 1020.)

AMENDMENTS

1977—Pub. L. 95-113 added provisions directing that appropriated funds be available until expended, that funds be made available for long-term agreements, and that the Secretary distribute the available funds among the several States in accordance with their conservation needs as determined by the Secretary and struck out provisions setting out a formula for determining the proper allocation of funds as between the various commodities and making reference to programs of soil-building practices, soil-conserving and water-conserving practices, and agricultural-related pollution prevention and abatement practices.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 590p. Limitation on obligations incurred; Great Plains conservation program

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590h, 590h-4, 590n, 590q-3, 1501 of this title; title 7 sections 1330, 1388, 1391, 1392; title 12 section 1150a.

§ 590q. Coverage; "State" defined; short title

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590h, 590h-4, 590n of this title; title 7 sections 1330, 1388, 1391, 1392; title 12 section 1150a.

§ 590q-3. Critical lands resource conservation program in Great Plains area

Notwithstanding any other provision of law—

(a) Authorization for program

The Secretary of Agriculture is authorized to formulate and carry out a program with owners and operators of land in the Great Plains area as described in section 590p(b) of this title to reduce runoff, soil and water erosion, and otherwise to promote the conservation of soil and water resources in such area through the conversion of cropland from soil depleting uses to conserving uses including the production of soil conserving cover crops.

(b) Terms of agreements with owners or operators

To effectuate the purposes of the program, the Secretary may enter into an agreement for a two-year period with an owner or operator as described in subsection (a) of this section whereby the owner or operator shall agree to devote to a soil conserving cover crop a specifically designated acreage of cropland on the farm up to 50 per centum of the acreage which had been planted to any soil depleting crop or crops in any of the two years preceding the date of the agreement. The agreement shall be renewable for annual periods thereafter subject to the mutual agreement of the owner or operator and the Secretary. In such agreement, the owner or operator shall agree (1) to plant a legume, or if not adapted to such area, an annual, biennial, or a perennial cover crop, as specified in the agreement; (2) to divert from production such portion of one or more crops designated by the Secretary as the Secretary determines necessary to effectuate the purpose of the program; (3) not to harvest any crop from or graze the designated acreage during the agreement period, unless the Secretary determines that it is necessary to permit grazing or harvesting in order to alleviate damage, hardship, or suffering caused by severe drought, flood, or other natural disaster, and consents to such grazing or harvesting subject to an appropriate reduction in the rate of payment; (4) to give adequate assurance, as specified by the Secretary, that the land was not acquired for the purpose of placing it in the program: *Provided*, That the foregoing provision shall not prohibit the continuation of an agreement by a new owner if an agreement has once been entered into under this section nor prevent an owner or operator from placing a farm in the program if the farm was acquired by the owner to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain; (5) to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder upon his violation of the agreement at any stage during the time he has control of the land if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if the Secretary determines that the violation by the owner or operator does not warrant termination of the agreement; (6) upon transfer of his right and interest in the farm, during the agreement period, to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement; (7) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and (8) to such additional provisions as the Secretary determines are desirable to effectuate the purposes of the program or to facilitate the practical administration of the program, including such measures as the Secretary may deem appropriate to keep the designated acreage from eroding and free from weeds and rodents in accordance with good conservation systems.

(c) Annual adjustment payments

In consideration for such agreement, the Secretary shall make annual adjustment payments to the owner or operator for the period of the agreement at such rate or rates not in excess of $30 per acre as the Secretary determines to be fair and reasonable. The Secretary may use an advertising and bid procedure in determining the lands in any area to be covered by agreements and the payment rate therefor. The Secretary and the owner or operator may agree that the annual adjustment payments for the agreement period shall be made either upon ap-

proval of the agreement or in such installments as they may agree to be desirable: *Provided*, That for each year any annual adjustment payment is made in advance of performance, the annual adjustment payment shall be reduced by 5 per centum.

(d) Termination of agreements

The Secretary may terminate any agreement under the program, by mutual agreement with the owner or operator, if the Secretary determines that such termination would be in the public interest, and may agree with the owner or operator to such modification of agreements as the Secretary may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(e) Preservation of cropland, crop acreage, and allotment history

The Secretary may, to the extent the Secretary deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops to establish vegetative cover for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program.

(f) Utilization of Federal and non-Federal offices

In carrying out the program, the Secretary shall utilize the services of local, county, and State committees established under section 590h of this title and the technical services of the Soil Conservation Service and soil and water conservation districts.

(g) Program payments

In case any producer who is entitled to any payment under the program dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable.

(h) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program.

(i) Rules and regulations

The Secretary shall prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(j) Authorization of appropriations; utilization of Commodity Credit Corporation

There are authorized to be appropriated for the period beginning October 1, 1977, and ending September 30, 1981, such sums as may be necessary to carry out the program provided for in this section. The Secretary is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation in discharging the Secretary's functions and responsibilities under the program, including payment of costs of administration: *Provided*, That the Commodity Credit Corporation shall not make any expenditures for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this section.

(Pub. L. 95-113, title XV, § 1511, Sept. 29, 1977, 91 Stat. 1022.)

CODIFICATION

Section was enacted as part of Pub. L. 95-113, known as the Food and Agriculture Act of 1977, and not as part of act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, known as the Soil Conservation and Domestic Allotment Act, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

CHAPTER 5A—PROTECTION AND CONSERVATION OF WILDLIFE

SUBCHAPTER I—GAME, FUR-BEARING ANIMALS, AND FISH

§ 661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations

ACT REFERRED TO IN OTHER SECTIONS

The Fish and Wildlife Coordination Act [16 U.S.C. 661-666c] is referred to in 666e, 666g, 1534 of this title; title 30 section 1292; title 33 section 1416; title 43 sections 421h, 422h.

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE

§ 668dd. National Wildlife Refuge System

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 459j-4 of this title; title 43 section 1714.

CHAPTER 5C—CONSERVATION PROGRAMS ON GOVERNMENT LANDS

SUBCHAPTER II—CONSERVATION PROGRAMS ON PUBLIC LANDS

§§ 670g, 670h

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 670k. Definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 9—FISH AND WILDLIFE SERVICE

§ 743a. Detail of personnel and loan equipment to Director of the Bureau of Sport Fisheries and Wildlife

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 10D—STATE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT PROJECTS

§ 779b. Authorization of appropriations

(a) There are authorized to be appropriated to the Secretary of Commerce for apportionment to the States to carry out the purposes of this chapter the following sums:

(1) $5,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and September 30, 1977,

(2) $10,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.

(b) In addition to the amounts authorized in subsection (a) of this section, there are authorized to be appropriated to the Secretary of Commerce—

(1) $1,500,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977, and

(2) $3,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980

which shall be available to the States in such amounts as the Secretary of Commerce may determine appropriate for the purposes of this chapter: *Provided,* That the Secretary shall give a preference to those States in which he determines there is a commercial fishery failure or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes in providing funds to States from the amount in clause (2) of this subsection, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such failure or to prevent a similar failure in the future: *Provided further,* That the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels. Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) In addition to the funds authorized in subsections (a) and (b) of this section, there are authorized to be appropriated to the Secretary of Commerce the following sums which shall be made available to one or more States in such amounts as the Secretary of Commerce may determine to be appropriate for developing a new commercial fishery therein:

(1) $100,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977.

(2) $500,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.

(As amended Pub. L. 95-53, June 22, 1977, 91 Stat. 249.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-53, § 1(1), raised the appropriation authorization for the fiscal year ending Sept. 30, 1978, from $5,000,000 to $10,000,000 and authorized an appropriation of $10,000,000 for each of the fiscal years ending Sept. 30, 1979, and Sept. 30, 1980.

Subsec. (b). Pub. L. 95-53, § 1(2), raised the appropriation authorization for the fiscal year ending Sept. 30, 1978, from $1,500,000 to $3,000,000 and authorized an appropriation of $3,000,000 for each of the fiscal years ending Sept. 30, 1979, and Sept. 30, 1980, and substituted "commercial fishery failure or serious disruption affecting future production" for "commercial fishery failure".

Subsec. (c). Pub. L. 95-53, § 1(3), raised the appropriation authorization for the fiscal year ending Sept. 30, 1978, from $100,000 to $500,000 and authorized an appropriation of $500,000 for each of the fiscal years ending Sept. 30, 1979, and Sept. 30, 1980.

CHAPTER 12—FEDERAL REGULATION AND DEVELOPMENT OF POWER

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 21b, 47b, 47f, 90d-4, 108, 158, 197, 201b, 204*l*, 205a, 207a, 221b, 342b, 391, 391b-1, 402e, 403b, 404b, 405, 407b, 408b, 410b, 435, 459a-1, 460m-11, 460ee, 460gg-2, 577b, 832h, 833g, 836, 1278 of this title; title 15 section 790a; title 25 section 326; title 30 section 621; title 33 section 467a; title 42 sections 2019, 7172, 7173; title 43 sections 617d, 617e, 617k, 617*l*.

SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 825*o* of this title; title 42 section 7172; title 43 section 1555.

§§ 792, 793

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 795. Omitted

CODIFICATION

Section, which related to expenses of the commission generally, consisted of the third paragraph of section 2 of act June 10, 1920, ch. 285, 41 Stat. 1063. Such section 2 was amended generally by act June 23, 1930, ch. 572, § 1, 46 Stat. 798, and is now classified to section 793 of this title. The first and second paragraphs

of said section 2 were formerly classified to sections 793 and 794 of this title.

§ 796. Definitions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 797. General powers of Commission

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 796, 828b of this title; title 42 section 7172.

§§ 798 to 808

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§§ 809 to 815

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 816, 817

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§ 818. Public lands included in project; reservation of lands from entry

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 820. Proceedings for revocation of license or to prevent violations of license

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 7172; title 43 section 1761.

§ 824. Declaration of policy; application of subchapter

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on contruction work in progress under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of Title 42, The Public Health and Welfare.

§ 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on construction work in progress under this subchapter and interconnection, under this section, of facilities for the generation, transmission, and sale of electric energy, other than emergency interconnection, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§§ 824b to 824h

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on contruction work in progress under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 824 of this title; title 43 section 1761.

§ 825. Accounts and records

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825b, 828b of this title; title 42 section 7172.

§ 825a. Rates of depreciation; notice to State authorities before fixing

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825b, 828b of this title; title 42 section 7172.

§ 825b. Requirements applicable to agencies of United States

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 825c. Periodic and special reports; obstructing filing reports or keeping accounts, etc.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., of the Federal Power Commission were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7177.

§ 825d. Official dealing in securities; declaring dividends out of capital account; interlocking directorates

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to regulation of mergers and securities acquisitions under this chapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(F) and 7293 of Title 42, The Public Health and Welfare.

§ 825e. Complaints

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825f. Investigation by Commission

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825g. Hearings; rules of procedure

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825h. Administrative powers of Commission; rules, regulations, and orders

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825j. Investigations relating to electric energy; reports to Congress

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7177.

§ 825k. Publication and sale of reports

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b),

7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 717m; title 39 section 3204; title 42 section 7172.

§ 825l. Review of orders

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 33 section 988; title 42 section 7172.

§ 825m. Enforcement provisions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825n. Forfeiture for violations; recovery

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825o. Penalties

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 811 of this title; title 42 section 7172.

§ 825p. Jurisdiction of offenses; enforcement of liabilities and duties

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 825s. Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior under this section were transferred to the Secretary of Energy by section 7152(a)(1) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825s-1, 825s-2 of this title; title 42 section 7152.

SUBCHAPTER IV—STATE AND MUNICIPAL WATER CONSERVATION FACILITIES

§ 828b. Exemption from formula, books and records, and project cost statement requirements; annual charges

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 12A—TENNESSEE VALLEY AUTHORITY

§ 831m. Allocation and charge of value and cost of plants to particular objects; cost accounting; reports of costs of operation; sale of surplus power at profit

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n-1. Bonds to carry out provisions of section 831k-1; amount, terms and conditions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n-3. Use of funds; limitation of issuance

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n-4. Bonds for financing power program

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 12B—BONNEVILLE PROJECT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 section 474; title 42 section 7152.

§ 832. Completion and maintenance of project; generation of electricity

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§ 832a. General administrative provisions

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832c. Distribution of electricity; preference to public bodies and cooperatives

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§ 832d. Contracts for sale of electricity

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832e. Rate schedules

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832f. Elements in determining rates

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832g. Purchase of supplies and services

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§§ 832h, 832i

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832k. Authority of Administrator

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within

the Department of Energy and headed by an Administrator.

CHAPTER 12C—FORT PECK PROJECT

§§ 833 to 833c

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§§ 833d, 833e

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 833f, 833g

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§ 833h. Personnel; appointment and compensation

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 833i, 833j

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§ 833q. Educational costs of dependents of employees; payments to school districts; reimbursement from continuing fund

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

CHAPTER 12D—COLUMBIA BASIN PROJECT

§ 835m. Recommendations for changes in limitations on financial assistance; time and frequency of submission

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 12E—NIAGARA POWER PROJECT

§ 836. Authorization to license construction and operation; licensing conditions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 12F—PACIFIC NORTHWEST CONSUMER POWER PREFERENCE; RECIPROCAL PRIORITY IN OTHER REGIONS

§ 837. Definitions

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsec. (g), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section

7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 12G—PACIFIC NORTHWEST FEDERAL TRANSMISSION SYSTEM

Chapter Referred to in Other Sections

This chapter is referred to in title 42 section 7152.

§§ 838 to 838e

Transfer of Functions

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§ 838f. Marketing of Federal power; sales agent

Transfer of Functions

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§ 838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval by Federal Power Commission; criteria for modification and establishment

Transfer of Functions

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 838i to 838k

Transfer of Functions

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 16A—ATLANTIC TUNAS CONVENTION

§ 971. Definitions

For the purpose of this chapter—

[*See main edition for text of* (1) *to* (3)]

(4) The term "fisheries zone" means the waters included within a zone contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea is measured; or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States.

[*See main edition for text of* (5) *to* (10)]

(As amended Pub. L. 95-33, § 2, May 26, 1977, 91 Stat. 173.)

Amendments

1977—Par. (4). Pub. L. 95-33 deleted the comma between "zone" and "contiguous", substituted "two hundred" for "200", and substituted a semi-colon for a comma following "is measured".

§ 971h. Authorization of appropriations

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, for fiscal year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, and 1980 such sums as may be necessary for carrying out the purposes and provisions of this chapter, including—

(1) necessary travel expenses of the United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5; and

(2) the United States share of the joint expenses of the Commission as provided in article X of the convention.

(As amended Pub. L. 95-33, § 1, May 26, 1977, 91 Stat. 173.)

Amendments

1977—Pub. L. 95-33 substituted "fiscal years 1977, 1978, 1979, and 1980" for "fiscal year 1977" in the provisions preceding par. (1).

CHAPTER 17—NORTHWEST ATLANTIC FISHERIES

§§ 981 to 991. Repealed. Pub. L. 95-6, § 4, Feb. 21, 1977, 91 Stat. 16

Section 981, acts Sept. 27, 1950, ch. 1054, § 2, 64 Stat. 1067; July 24, 1968, Pub. L. 90-420, § 1(a) to (c), 82 Stat. 419; Aug. 11, 1971, Pub. L. 92-87, §§ 101 to 103, 85 Stat. 310; July 10, 1974, Pub. L. 93-339, § 1(a), 88 Stat. 293, covered definitions of "convention", "Commission", "person", "vessel", "fishing gear", "fishing",

"fish", "international measures of control", and "national measures of control".

Section 982, acts Sept. 27, 1950, ch. 1054, § 3, 64 Stat. 1068; Aug. 11, 1971, Pub. L. 92-87, § 111(a), (b), 85 Stat. 313, related to appointment and compensation of Commissioners for the International Commission for the Northwest Atlantic Fisheries.

Section 983, acts Sept. 27, 1950, ch. 1054, § 4, 64 Stat. 1068; July 24, 1968, Pub. L. 90-420, § 1(d), 82 Stat. 419; July 10, 1974, Pub. L. 93-339, § 1(b), (c), (g), 88 Stat. 293, provided for appointment, compensation, and travel expenses of an advisory committee.

Section 984, acts Sept. 27, 1950, ch. 1054, § 5, 64 Stat. 1068; Aug. 11, 1971, Pub. L. 92-87, § 111(c), 85 Stat. 313, deemed service of a United States Commissioner or member of the advisory committee as service as a special government employee of the United States, as defined in section 202 of Title 18.

Section 985, acts Sept. 27, 1950, ch. 1054, § 6, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92-87, §§ 104, 105, 85 Stat. 310, 311, authorized Secretary of State to receive on behalf of the United States reports, requests, recommendations, and other communications of the Commission, and to act thereon.

Section 986, acts Sept. 27, 1950, ch. 1054, § 7, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92-87, §§ 106, 107, 110(a), (b), 85 Stat. 311, 312; July 10, 1974, Pub. L. 93-339, § 1(d), (e), 88 Stat. 293, authorized Secretary of Commerce to enforce this chapter.

Section 987, act Sept. 27, 1950, ch. 1054, § 8, 64 Stat. 1069, related to the Commissioner's cooperation with agencies of the United States government and State and private institutions and organizations.

Section 988, acts Sept. 27, 1950, ch. 1054, § 9, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92-87, § 108, 85 Stat. 312; July 10, 1974, Pub. L. 93-339, § 1(f), 88 Stat. 293, related to activities declared unlawful with respect to this chapter.

Section 989, acts Sept. 27, 1950, ch. 1054, § 10, 64 Stat. 1070; Aug. 11, 1971, Pub. L. 92-87, § 109, 85 Stat. 312, covered the penalties for violations of section 988 of this title or any regulations adopted pursuant to this chapter.

Section 990, acts Sept. 27, 1950, ch. 1054, § 11, 64 Stat. 1070; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118; Aug. 11, 1971, Pub. L. 92-87, § 110(c), (d), 85 Stat. 312, related to procedures for arrest, search and seizure, warrants, stay of execution, and bond or stipulation with respect to persons committing violations of the convention, this chapter, or adopted regulations.

Section 991, acts Sept. 27, 1950, ch. 1054, § 12, 64 Stat. 1071; Aug. 11, 1971, Pub. L. 92-87, § 111(d), 85 Stat. 313, authorized appropriation to carry out the purposes and provisions of this chapter.

EFFECTIVE DATE OF REPEAL

Section 4 of Pub. L. 95-6 provided in part that repeal of sections 981 to 991 of this title shall be effective Mar. 1, 1977.

CHAPTER 18—WATERSHED PROTECTION AND FLOOD PREVENTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to section 460*l*-17 of this title; title 7 section 1931; title 22 section 277d-29; title 30 section 1265; title 33 section 1288; title 40 App. section 214; title 42 sections 3131, 3188a.

§ 1002. Definitions

For the purposes of this chapter, the following terms shall mean:

The "Secretary"—the Secretary of Agriculture of the United States.

"Works of improvement"—any undertaking for—

(1) flood prevention (including structural and land treatment measures),

(2) the conservation, development, utilization, and disposal of water, or

(3) the conservation and proper utilization of land,

in watershed or subwatershed area not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of $1,000,000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: *Provided*, That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

"Local organization"—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1506(a), 91 Stat. 1022.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "$1,000,000" for "$250,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 1005. Works of improvement

[*See main edition for text of (1) and (2)*]

(3) Transmission of certain plans to Congress

Whenever the estimated Federal contribution to the construction costs of works of improvement in the plan for any watershed or subwatershed area shall exceed $1,000,000 or the

works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary shall transmit a copy of the plan and the justification therefor to the Congress through the President.

(4) Transmission of certain plans and recommendations to Congress

Any plans for works of improvement involving an estimated Federal contribution to construction costs in excess of $1,000,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes works of improvement for reclamation or irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) which includes Federal assistance for goodwater [1] detention structures, (c) which includes features which may affect the public health, or (d) which includes measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

[*See main edition for text of* (5)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1506(b), (c), 91 Stat. 1022.)

AMENDMENTS

1977—Subd. (3). Pub. L. 95-113, § 1506(b), substituted "$1,000,000" for "$250,000".

Subd. (4). Pub. L. 95-113, § 1506(c), substituted "$1,000,000" for "$250,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 1006. Cooperative programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 1265.

§ 1006a. Loans or advancements for financing local share of costs; repayment; interest; maximum amount

The Secretary is authorized to make loans or advancements (a) to local organizations to finance the local share of costs of carrying out works of improvement provided for in this chapter, and (b) to State and local agencies to finance the local share of costs of carrying out works of improvement (as defined in section 1002 of this title) in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented: *Provided*, That the works of improvement in connection with said eleven watershed improvement programs shall be integral parts of watershed or subwatershed work plans agreed upon by the Secretary of Agriculture and the concerned State and local agencies. Such loans or advancements shall be made under contracts or agreements which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than fifty years from the date when the principal benefits of the works of improvement first become available, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the loan or advancement is made, which are neither due nor callable for redemption for fifteen years from date of issue. With respect to any single plan for works of improvement, the amount of any such loan or advancement shall not exceed $10,000,000.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1508, 91 Stat. 1022.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "$10,000,000" for "five million dollars" as the maximum amount of a loan or advancement for any single plan for works of improvement.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

CHAPTER 20—NATIONAL FISHERIES CENTER AND AQUARIUM

§ 1053. Delegation of responsibility for operation

CHANGE OF NAME

The Bureau of Sport Fisheries and Wildlife within the Fish and Wildlife Service, as originally referred to in text, was succeeded by the United States Fish and Wildlife Service pursuant to Pub. L. 93-371, § 1(c), Apr. 22, 1974, 88 Stat. 92. See section 742b of this title.

CHAPTER 23—NATIONAL WILDERNESS PRESERVATION SYSTEM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 90e, 90e-2, 272d, 273d, 460aa-1, 460dd-8, 460gg-1, 1281 of this title; title 43 section 1782.

§ 1131. National Wilderness Preservation System

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1702.

§ 1132. Extent of System

MONTANA WILDERNESS STUDY

Pub. L. 95-150, Nov. 1, 1977, 91 Stat. 1243, provided:

[1] So in original. Probably should read "floodwater".

"[Section 1.] That this Act [enacting this note] may be cited as the 'Montana Wilderness Study Act of 1977'.

"Sec. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the 'Secretary') shall, within five years after the date of enactment of this Act [Nov. 1, 1977], review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

"(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled 'West Pioneer Wilderness Study Area' and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

"(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled 'Taylor-Hilgard Wilderness Study Area' dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

"(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled 'Bluejoint Wilderness Study Area' and dated April 1976, comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

"(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled 'Sapphire Wilderness Study Area' and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

"(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled 'Ten Lakes Wilderness Study Area' and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

"(6) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled 'Middle Fork Judith Wilderness Study Area' dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

"(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled 'Big Snowies Wilderness Study Area' and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

"(8) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled 'Hyalite-Porcupine-Buffalo Horn Wilderness Study Area' and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

"(9) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled 'Mount Henry Wilderness Study Area' and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mount Henry Wilderness Study Area.

"(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act [subsecs. (b) and (d) of this section], except that any reference in such subsections to areas in the national forests classified as 'primitive' shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress if [1] his recommendations with respect to such areas within seven years after the date of enactment of this Act [Nov. 1, 1977]: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

"(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

"Sec. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

"(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

"(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

"Sec. 4. There are hereby authorized to be appropriated after October 1, 1977, such sums as may be necessary to carry out the provisions of this Act."

[1] So in original. Probably should be "of".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90e-3, 228i-1, 271e, 272d, 273d, 459g-6, 459h-7, 459i-8, 459j-7, 460m-13, 460x-5, 460z-11, 460aa-4, 460dd-8, 460gg-5, 698d, 698*l* of this title; title 43 section 1782.

§ 1133. Use of wilderness areas

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1782.

CHAPTER 27—NATIONAL TRAILS SYSTEM

§ 1248. Easements and rights-of-way; conditions; cooperation of federal agencies with Secretary of the Interior and Secretary of Agriculture

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 28—WILD AND SCENIC RIVERS

§ 1275. Additions to national wild and scenic rivers system

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 1276. Rivers constituting potential additions to national wild and scenic rivers system

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg-13, 1275, 1278, 1279, 1280, 1283 of this title; title 30 section 1272.

§ 1278. Restrictions on water resources projects

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 31—MARINE MAMMAL PROTECTION

§ 1372. Prohibitions

[*See main edition for text of (a) to (e)*]

(f) Commercial taking of whales

It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.

(As amended Pub. L. 95-136, § 4, Oct. 18, 1977, 91 Stat. 1167.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-136 added subsec. (f).

§ 1380. Marine mammal research grants

[*See main edition for text of (a) and (b)*]

(c) There are authorized to be appropriated, for the purposes of carrying out this section, not to exceed the following sums for the following fiscal years:

(1) $2,500,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, September 30, 1976, and September 30, 1977, of which one-third of the sum appropriated for any such fiscal year shall be available to the Secretary of the Interior and two-thirds of any such sum shall be available to the Secretary of Commerce.

(2) $1,200,000, all of which shall be available to the Secretary of the Interior, for the fiscal year ending September 30, 1978.

(3) $200,000, all of which shall be available to the Secretary of Commerce, for the fiscal year ending September 30, 1978.

(As amended Pub. L. 95-136, § 1, Oct. 18, 1977, 91 Stat. 1167.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-136 incorporated existing provisions into material preceding par. (1) and, as so incorporated, struck out provisions authorizing to be appropriated such sums as may be necessary to carry out this section for the fiscal year in which this section takes effect and the next four years thereafter, limiting appropriations for any one year to $2,500,000, and requiring that one-third of such sums be made available to the Secretary of the Interior and two-thirds of such sums be made available to the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, and added pars. (1) to (3).

§ 1384. Authorization of appropriations

(a) There are authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending June 30, 1973, and the four next following fiscal years, and not to exceed $11,500,000 for the fiscal year ending September 30, 1978, to enable the department in which the National Oceanic and Atmospheric Administration is operating to carry out such functions and responsibilities as it may have been given under this subchapter.

(b) There are authorized to be appropriated not to exceed $700,000 for the fiscal year ending June 30, 1973, not to exceed $525,000 for each of the next four fiscal years thereafter, and not to exceed $850,000 for the fiscal year ending September 30, 1978 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this subchapter.

(As amended Pub. L. 95-136, § 2, Oct. 18, 1977, 91 Stat. 1167.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-136, § 2(1), inserted ", and not to exceed $11,500,000 for the fiscal year ending September 30, 1978," following "fiscal years".

Subsec. (b). Pub. L. 95-136, § 2(2), inserted ", and not to exceed $850,000 for the fiscal year ending September 30, 1978" following "thereafter".

§ 1402. Duties of Commission

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1404 of this title.

§ 1407. Authorization of appropriations

There are authorized to be appropriated for the fiscal year in which this subchapter is enacted and for the next five fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000.

(As amended Pub. L. 95-136, § 3, Oct. 18, 1977, 91 Stat. 1167.)

AMENDMENTS

1977—Pub. L. 95-136 substituted "five fiscal years" for "four fiscal years" and "the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000" for "the sums appropriated for any such year shall not exceed $1,000,000" and struck out requirement that not less than two-thirds of the sums appropriated pursuant to this section for any such year be expended on research and studies under authority of section 1402(a)(2) and (3) of this title.

CHAPTER 32—MARINE SANCTUARIES

§ 1434. Authorization of appropriations

There are authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed $6,200,000 for fiscal year 1976, not to exceed $1,550,000 for the transition period (July 1 through September 30, 1976), not to exceed $500,000 for fiscal year 1977, and not to exceed $500,000 for fiscal year 1978 to carry out the provisions of this chapter, including the acquisition, development, and operation of marine sanctuaries designated under this chapter.

(As amended Pub. L. 95-153, § 3, Nov. 4, 1977, 91 Stat. 1255.)

AMENDMENTS

1977—Pub. L. 95-153 added provision authorizing appropriations not to exceed $500,000 for fiscal year 1978.

CHAPTER 33—COASTAL ZONE MANAGEMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 sections 1503, 1508.

§ 1456. Coordination and cooperation

[*See main edition for text of (a) to (e)*]

(f) Construction with existing requirements of water and air pollution programs

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

[*See main edition for text of (g), (h)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (f), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (f) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

§ 1456b. Interstate grants

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 34—RURAL ENVIRONMENTAL CONSERVATION PROGRAM

§ 1505. Multiyear set-aside contracts; contracting authority of Secretary; duration of contracts; eligibility of producers; duties of producers under contracts; cost-sharing incentives for farm operators

(a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1981 crop. Such contracts may be entered into only as a part of the programs in effect for wheat, feed grains, and cotton for the years 1974 through 1982, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegetative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster as determined by the President if the Secretary finds there is a need therefor, as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-113, title XV, § 1509, Sept. 29, 1977, 91 Stat. 1022.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "1981" for "1977" as the year beyond which a multiyear set-aside contract may not extend, substituted "1982" for "1978" as the final crop year for programs which the contracts entered into may involve, and added an exception to the prohibition on the grazing of livestock to apply in areas of a major disaster as determined by the President if the Secretary finds that there is a need therefor, as a result of the disaster.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

CHAPTER 35—ENDANGERED SPECIES

§ 1535. Cooperation with the States

[*See main edition for text of (a) and (b)*]

(c) Cooperative agreements

In furtherance of the purposes of this chapter, the Secretary is authorized to enter into a

cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this subsection, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(1) authority resides in the State agency to conserve resident species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(2) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of fish or wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(3) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(4) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered species or threatened species; and

(5) provision is made for public participation in designating resident species of fish or wildlife as endangered or threatened; or

that under the State program—

(A) the requirements set forth in paragraphs (3), (4), and (5) of this subsection are complied with, and

(B) plans are included under which immediate attention will be given to those resident species of fish and wildlife which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to subparagraph (A) and this subparagraph shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 1533(d) of this title or section 1538(a)(1) of this title with respect to the taking of any resident endangered or threatened species.

[*See main edition for text of (d) to (h)*]

(i) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

(1) $10,000,000 through the period ending September 30, 1977.

(2) $16,000,000 for the period beginning October 1, 1977, and ending September 30, 1981.

(As amended Pub. L. 95-212, Dec. 19, 1977, 91 Stat. 1493.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-212, § 1(1), added language providing that States in which the State fish and wildlife agencies do not possess the broad authority to conserve all resident species of fish and wildlife which the Secretary determines to be threatened or endangered may nevertheless qualify for cooperative agreement funds if they satisfy all other requirements and have plans to devote immediate attention to those species most urgently in need of conservation programs.

Subsec. (i). Pub. L. 95-212, § 1(2), substituted provisions authorizing appropriations of $10,000,000 to cover the period ending Sept. 30, 1977, and $16,000,000 to cover the period beginning Oct. 1, 1977, and ending Sept. 30, 1981, for provisions authorizing appropriations of not to exceed $10,000,000 through the fiscal year ending June 30, 1977.

CHAPTER 36—FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 472a of this title; title 29 section 993c; title 43 section 1721.

§ 1600. Congressional findings

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-588 provided: "That this Act [enacting sections 472a, 521b, 1600, and 1611 to 1614 of this title, amending sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealing sections 476, 513 and 514 of this title, and enacting provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title] may be cited as the 'National Forest Management Act of 1976'."

§ 1604. National Forest System land and resource management plans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1611 of this title; title 43 section 1752.

CHAPTER 38—FISHERY CONSERVATION AND MANAGEMENT

SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Sec.
1826. Transitional provisions [New].
(a) Definition.
(b) Action by Councils.
(c) Permits.
(d) Permit fees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 917 of this title; title 33 section 1321.

SUBCHAPTER I—GENERALLY

§ 1801. Findings, purposes and policy

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-6, § 1, Feb. 21, 1977, 91 Stat. 14, provided: "That this joint resolution [which enacted section 1826 of this title, repealed sections 981 to 991 of this title, and enacted provisions set out as notes under sections 981 and 1823 of this title] may be cited as the 'Fishery Conservation Zone Transition Act'."

SUBCHAPTER II—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

§ 1811. Fishery conservation zone

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1802 of this title; title 22 section 1980.

§ 1812. Exclusive fishery management authority

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1980.

SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

§ 1823. Congressional oversight of governing international fishery agreements

CONGRESSIONAL APPROVAL OF CERTAIN GOVERNING INTERNATIONAL FISHERY AGREEMENTS

Pub. L. 95-6, § 2, Feb. 21, 1977, 91 Stat. 15, as amended by Pub. L. 95-8, § 1, Mar. 3, 1977, 91 Stat. 18; Pub. L. 95-219, § 1, Dec. 28, 1977, 91 Stat. 1613, provided that:

"Notwithstanding section 203 of the Fishery Conservation and Management Act of 1976 [this section], the governing international fishery agreement between the Government of the United States of America and—

"(1) the Government of the People's Republic of Bulgaria Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 14, 1974;

"(2) the Government of the Socialist Republic of Romania Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(3) the Government of the Republic of China Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(4) the Government of the German Democratic Republic Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(5) the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(6) the Government of the Polish People's Republic Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 16, 1976;

"(7) the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977;

"(8) the Government of Japan Concerning Fisheries Off the Coasts of the United States (for 1977), as contained in the message to Congress from the President of the United States dated February 21, 1977;

"(9) the Government of the Republic of Korea Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977;

"(10) the Government of Spain Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977; and

"(11) the Government of Mexico Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated October 7, 1977;

is hereby approved by the Congress as a governing international fishery agreement for purposes of the Fishery Conservation and Management Act of 1976 [section 1801 et seq. of this title]. Each such agreement referred to in paragraphs (1) through (6) shall enter into force and effect with respect to the United States on the date of the enactment of this joint resolution [Feb. 21, 1977], and each such agreement referred to in paragraphs (7) through (11) shall enter into force and effect with respect to the United States on February 27, 1977."

Pub. L. 95-219, § 2, Dec. 28, 1977, 91 Stat. 1613, provided that: "The amendments made by the first section of this Act [adding par. (11) and amending provisions following par. (11)] shall take effect February 27, 1977."

Pub. L. 95-8, § 2, Mar. 3, 1977, 91 Stat. 18, provided that: "The amendments made by the first section of this Act [adding pars. (7) to (10) and amending provisions following par. (10)] shall take effect February 27, 1977."

RECIPROCAL FISHERIES AGREEMENT BETWEEN UNITED STATES AND CANADA

Pub. L. 95-6, § 5, as added Pub. L. 95-73, July 26, 1977, 91 Stat. 283, provided that:

"(a) CONGRESSIONAL APPROVAL—The Congress hereby approves the Reciprocal Fisheries Agreement between the Government of the United States and the Government of Canada (hereinafter in this section referred to as the 'Agreement'), as contained in the message to Congress from the President of the United States dated February 28, 1977. The Agreement shall be in force and effect with respect to the United States during the period beginning March 1, 1977, and ending at the close of December 31, 1977.

"(b) APPLICATION—During the period when the Agreement is in force and effect with respect to the United States—

"(1) vessels and nationals of Canada may fish within the fishery conservation zone, or for anadromous species and Continental Shelf fishery resources beyond such zone, but only pursuant to, and in accordance with, the provisions of the Agreement; and

"(2) title II of the Fishery Conservation and Management Act of 1976 [this subchapter] (relating to foreign fishing and international fishery agreements) and section 307 of such Act of 1976 [section 1857 of this title] (relating to prohibited acts) shall not apply with respect to fishing within the fishery conservation zone, or for anadromous species and Continental Shelf fishery resources beyond such zone, by vessels and nationals of Canada which is pursuant to, and in accordance with the provisions of the Agreement.

"(c) FISHING STATISTICS—(1) Any person who—

"(A) owns or operates any fishing vessel which—

"(i) is a vessel of the United States, and

"(ii) engages in fishing to which the Agreement applies; or

"(B) directly or indirectly receives, or may receive, fish to which the Agreement applies in the course of a commercial activity in quantities determined by the Secretary to be sufficient to assist in the carrying out of this paragraph.

shall submit to the Secretary such statistics (including, but not limited to, catch data) regarding such fishing or such receipt of fish as are necessary to fulfill the obligations of the United States under article XIII of the Agreement. The Secretary, after consultation with the Secretary of State, shall issue such regulations as are necessary and appropriate to carry out the purposes of this paragraph. Section 303(d) of the Fishery Conservation and Management Act of 1976 [section 1853(d) of this title] (relating to the confidentiality of statistics) shall apply with respect to all statistics submitted under this paragraph.

"(2) Any violation of paragraph (1), or of any regulation issued pursuant to paragraph (1), by any person shall be deemed to be an act prohibited by section 307 of the Fishery Conservation and Management Act of 1976 [section 1857 of this title]. Any person who commits any such violation shall be liable to the United States for a civil penalty as provided for in section 308 of such Act of 1976 [section 1858 of this title]. Sections 309 [section 1859 of this title] (relating to criminal offenses) and 310 [section 1860 of this title] (relating to civil forfeiture) of such Act of 1976 shall not apply with respect to any such violation.

"(d) DEFINITIONS—As used in this section, the terms 'anadromous species', 'Continental Shelf fishery resources', 'fishery conservation zone', 'fishing', 'fishing vessel', 'Secretary', and 'vessel of the United States' shall have the same respective meanings as are given to such terms in section 3 of the Fishery Conservation and Management Act of 1976 [section 1802 of this title]."

§ 1824. Permits for foreign fishing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1825, 1826, 1852, 1857 of this title.

§ 1826. Transitional provisions

(a) Definition

For purposes of this section, the term "governing international fishery agreement" does not include any governing international fishery agreement other than a governing international fishery agreement approved by the Congress pursuant to section 2 of the Fishery Conservation Zone Transition Act, or pursuant to any amendment to such section 2 if the effective date of such amendment is not later than February 28, 1977.

(b) Action by Councils

Section 1824(b)(5) of this title shall not apply to any application submitted by a foreign nation pursuant to a governing international fishery agreement for permits authorizing fishing during 1977 by vessels of that nation within the fishery conservation zone or for anadromous species or Continental Shelf fishery resources beyond such zone, but each appropriate Council may prepare and submit comments to the Secretary on such application—

(1) if the application has been received by the Council on or before February 21, 1977, within 7 days after such date; or

(2) if the application is received by the Council from the Secretary of State after February 21, 1977, within 7 days after the date on which the Council receives the application.

The provisions of the Federal Advisory Committee Act shall not apply to the actions of any Council in preparing such comments.

(c) Permits

Until May 1, 1977, the requirement in section 1824(a) of this title that foreign fishing vessels have on board a valid permit issued under section 1824 of this title shall not apply in the case of any foreign fishing vessel for which a permit is issued under an application to which subsection (b) of this section applies. The failure of any such vessel to comply with such requirement before such date shall not be deemed to be a violation of section 1857(1)(A) of this title.

(d) Permit fees

Until May 1, 1977, the requirement in section 1824(b)(11) of this title, regarding the payment of applicable fees before foreign fishing permits are issued, may be waived by the Secretary with respect to permits to be issued under any application to which subsection (b) of this section applies if the Secretary is satisfied that the foreign nation which made the application will pay the applicable fees before such date. Any permit issued under the waiver provided by this subsection shall expire on May 1, 1977, if the Secretary does not receive on or before such date the applicable fees for the permit.

(Pub. L. 94-265, title II, § 206, as added Pub. L. 95-6, § 3(1), Feb. 21, 1977, 91 Stat. 15.)

REFERENCES IN TEXT

Section 2 of the Fishery Conservation Zone Transition Act, referred to in subsec. (a) is section 2 of Pub. L. 95-6, Feb. 21, 1977, 91 Stat. 14, as amended, which is set out as a note under section 1823 of this title.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER IV—NATIONAL FISHERY MANAGEMENT PROGRAM

§ 1857. Prohibited acts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1824, 1826, 1858, 1859, 1860, 1861 of this title.

CHAPTER 40—SOIL AND WATER RESOURCES CONSERVATION [NEW]

Sec.
2001. Congressional findings.
2002. Definitions.
2003. Congressional policy and declaration of purpose.
(a) Responsiveness to long-term needs.
(b) Full utilization of cooperative arrangements with State agencies.
(c) Attainment of policies and purposes.
2004. Continuing appraisal of soil, water, and related resources.
(a) Data.
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Sec.
2005. Soil and water conservation program.
(a) Program development.
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(a) Appraisal, program, and detailed statement of policy at five-year intervals.
(b) Annual report of program and policy achievement.
(c) Annual report accompanying budget covering program effectiveness.
2007. Authorization of appropriations.
2008. Utilization of available information and data.
2009. Termination of program.

§ 2001. Congressional findings

The Congress finds that:

(1) There is a growing demand on the soil, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Resource appraisal is basic to effective soil and water conservation. Since individual and governmental decisions concerning soil and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

(Pub. L. 95-192, § 2, Nov. 18, 1977, 91 Stat. 1407.)

SHORT TITLE

Section 1 of Pub. L. 95-192 provided: "That this Act [which enacted this chapter] may be cited as the 'Soil and Water Resources Conservation Act of 1977'."

§ 2002. Definitions

As used in this chapter:

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "soil, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "soil and water conservation program" means a set of guidelines for attaining the purposes of this chapter.

(Pub. L. 95-192, § 3, Nov. 18, 1977, 91 Stat. 1407.)

§ 2003. Congressional policy and declaration of purpose

(a) Responsiveness to long-term needs

In order to further the conservation of soil, water, and related resources, it is declared to be the policy of the United States and purpose of this chapter that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation, as determined under the provisions of this chapter.

(b) Full utilization of cooperative arrangements with State agencies

Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this chapter consistent with the roles and responsibilities of the non-Federal agencies, landowners and land users.

(c) Attainment of policies and purposes

The Secretary shall promote the attainment of the policies and purposes expressed in this chapter by—

(1) appraising on a continuing basis the soil, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources of the Nation consistent with the roles and program responsibilities of other Federal agencies and State and local governments; and

(3) providing to Congress and the public, through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 2006 of this title.

(Pub. L. 95-192, § 4, Nov. 18, 1977, 91 Stat. 1407.)

§ 2004. Continuing appraisal of soil, water, and related resources

(a) Data

In recognition of the importance of and need for obtaining and maintaining information on the current status of soil, water, and related resources, the Secretary is authorized and directed to carry out a continuing appraisal of the soil, water, and related resources of the Nation. The appraisal shall include, but not be limited to—

(1) data on the quality and quantity of soil, water, and related resources, including fish and wildlife habitats;

(2) data on the capability and limitations of those resources for meeting current and projected demands on the resource base;

(3) data on the changes that have occurred in the status and condition of those resources resulting from various past uses, including the impact of farming technologies, techniques, and practices;

(4) data on current Federal and State laws, policies, programs, rights, regulations, ownerships, and their trends and other considerations relating to the use, development, and conservation of soil, water, and related resources;

(5) data on the costs and benefits of alternative soil and water conservation practices; and

(6) data on alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) Collection of data

The appraisal shall utilize data collected under this chapter and pertinent data and information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and capabilities for alternative uses of the resource base and to identify areas of local, State, and National concerns and related roles pertaining to soil and water conservation, resource use and development, and environmental improvement.

(c) Public participation

The appraisal shall be made in cooperation with conservation districts, State soil and water conservation agencies, and other appropriate citizen groups, and local and State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) Completion dates

The appraisal shall be completed by December 31, 1979, and at each five-year interval thereafter during the period this chapter is in effect.

(Pub. L. 95-192, § 5, Nov. 18, 1977, 91 Stat. 1408.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005, 2006 of this title.

§ 2005. Soil and water conservation program

(a) Program development

The Secretary is hereby authorized and directed to develop in cooperation with and participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means, a national soil and water conservation program (hereinafter called the "program") to be used as a guide in carrying out the activities of the Soil Conservation Service which assist landowners and land users, at their request, in furthering soil and water conservation on the private and non-Federal lands of the Nation. The program shall set forth direction for future soil and water conservation efforts of the United States Department of Agriculture based on the current soil, water, and related resource appraisal developed in accordance with section 2004 of this title, taking into consideration both the long- and short-term needs of the Nation, the landowners, and the land users, and the roles and responsibilities of Federal, State, and local governments in such conservation efforts. The program shall also include but not be limited to—

(1) analysis of the Nation's soil, water, and related resource problems;

(2) analysis of existing Federal, State, and local government authorities and adjustments needed;

(3) an evaluation of the effectiveness of the soil and water conservation ongoing programs and the overall progress being achieved by Federal, State, and local programs and the landowners and land users in meeting the soil and water conservation objectives of this chapter;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of soil and water resources, in the context of alternative time frames, and a recommendation of the preferred alternatives and the extent to which they are being implemented;

(5) investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting, or similarly treating such materials, transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices;

(6) analysis of the Federal and non-Federal inputs required to implement the program;

(7) analysis of costs and benefits of alternative soil and water conservation practices; and

(8) investigation and analysis of alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) Completion dates

The program plan shall be completed not later than December 31, 1979, and be updated at each five-year interval thereafter during the period this chapter is in effect.

(Pub. L. 95-192, § 6, Nov. 18, 1977, 91 Stat. 1409.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2006 of this title.

§ 2006. Reports to Congress

(a) Appraisal, program, and detailed statement of policy at five-year intervals

On the first day Congress convenes in 1980 and at each five-year interval thereafter during the period this chapter is in effect the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal and the program as required by sections 2004 and 2005 of this title,

together with a detailed statement of policy regarding soil and water conservation activities of the United States Department of Agriculture.

(b) Annual report of program and policy achievement

Commencing with the fiscal year ending September 30, 1982, the President shall, not later than thirty days after the submission of the budget for each fiscal year, prepare and transmit to Congress a report expressing in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the statement of policy submitted under subsection (a) of this section. In any case in which the budget recommends a course which fails to meet the statement of policy, the President shall set forth in his report under this subsection the reasons for requesting Congress to approve the lesser program or policies presented in the budget.

(c) Annual report accompanying budget covering program effectiveness

The Secretary, during budget preparation for fiscal year 1982 and annually thereafter during the period this chapter is in effect, shall prepare and transmit to the Congress, through the President, a report to accompany the budget which evaluates the program's effectiveness in attaining the purposes of this chapter. The report, prepared in concise summary form with appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 2004 of this title, shall set forth the progress in implementing the program required to be developed by section 2005 of this title, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

(Pub. L. 95-192, § 7, Nov. 18, 1977, 91 Stat. 1410.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2003 of this title.

§ 2007. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95-192, § 8, Nov. 18, 1977, 91 Stat. 1411.)

§ 2008. Utilization of available information and data

In the implementation of this chapter, the Secretary shall utilize information and data available from other Federal, State, and local governments, and private organizations and he shall coordinate his actions with the resource appraisal and planning efforts of other Federal agencies and avoid unnecessary duplication and overlap of planning and program efforts.

(Pub. L. 95-192, § 9, Nov. 18, 1977, 91 Stat. 1411.)

§ 2009. Termination of program

The provisions of this chapter shall terminate on December 31, 1985.

(Pub. L. 95-192, § 10, Nov. 18, 1977, 91 Stat. 1411.)

TITLE 17—COPYRIGHTS

Title 17, enacted by act July 30, 1947, ch. 391, 61 Stat. 652, was effective until January 1, 1978, and as revised in its entirety by Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2541, became effective January 1, 1978, except sections 118, 304(b), and chapter 8, which became effective October 19, 1976

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Table

This Table lists the sections of former Title 17, Copyrights, and indicates the sections of Title 17, as revised by Pub. L. 94-553, which cover similar and related subject matter.

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27	109, 202
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102	Rep. See T. 28 § 1338
103	Rep. See F.R. Civ. Proc.
104	110, 506
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110	Rep. See T. 28 § 1338
111	Rep. See T. 28 § 1400
112	502
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202	701(a)
203	708(c)
204	Rep.
205	701(c)
206	701(b)
207	702
208	705
209	407, 410
210	707
211	707
212	705
213	704
214	704
215	708(a), (b)
216	703

Prior Provisions

Title 17, as enacted by act July 30, 1947, ch. 391, 61 Stat. 652, consisting of sections 1 to 32, 101 to 116, and 201 to 216, as amended through 1976, and section 203, as amended by Pub. L. 95-94, title IV, § 406(a), Aug. 5, 1977, 91 Stat. 682, terminated Jan. 1, 1978.

Effective Date

Section 102 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2598, provided that: "This Act [enacting this title and section 170 of Title 2, The Congress, amending section 131 of title 2, section 290e of Title 15, Commerce and Trade, section 2318 of Title 18, Crimes and Criminal Procedure, section 543 of Title 26, Internal Revenue Code of 1954, section 1498 of Title 28, Judiciary and Judicial Procedure, sections 3203 and 3206 of Title 39, Postal Service, and sections 505 and 2113 of Title 44, Public Printing and Documents, and enacting provisions set out as notes below and under sections 104, 115, 304, 401, 407, 410, and 501 of this title] becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act [Oct. 19, 1976]."

Separability of Provisions

Section 115 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2602, provided that: "If any provision of title 17 [this title], as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of this title is not affected."

Authorization of Appropriations

Section 114 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2602, provided that: "There are hereby authorized to

be appropriated such funds as may be necessary to carry out the purposes of this Act [this title]."

LOST AND EXPIRED COPYRIGHTS; RECORDING RIGHTS

Section 103 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2599, provided that: "This Act [enacting this title] does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909."

CROSS REFERENCES

Exclusive jurisdiction of Federal courts over actions and proceedings under copyright laws, see section 1338 of Title 28, Judiciary and Judicial Procedure.

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CHAPTER 1—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.
101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matter of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines, or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both,

that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collec-

tive work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2541.)

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works; and

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2544.)

CROSS REFERENCES

Actions and remedies for infringement of copyright, see section 501 et seq. of this title.

Common law rights, see section 301 of this title.

Copyright as distinct from property in object copyrighted, see section 202 of this title.

Copyright not capital asset, see section 1221 of Title 26, Internal Revenue Code.

Duration of copyright, see section 301 et seq. of this title.

Fees, see section 708 of this title.

Government works as not copyrightable, see section 105 of this title.

Power of Congress to grant authors exclusive right to their writings, see Const. Art. 1, § 8, cl. 8.

Preemption of other laws that come within subject matter of this section, see section 301 of this title.

Proclamation by President granting foreign authors copyright protection, see section 104 of this title.

Regulations, see section 702 of this title.

Subject matter of copyright—

Compilations and derivative works, see section 103 of this title.

National origin, see section 104 of this title.

United States Government works, see section 105 of this title.

Transfer and bequests of copyright, see section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 104, 301 of this title.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2545.)

CROSS REFERENCES

Preemption of other laws that come within subject matter of this section, see section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 301 of this title.

§ 104. Subject matter of copyright: National origin

(a) Unpublished Works

The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) Published Works

The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2545.)

References in Text

The Universal Copyright Convention, referred to in subsec. (b)(2), is set out below.

Universal Copyright Convention

The Unesco Universal Copyright Convention was adopted by the Intergovernmental Copyright Conference at Geneva, Switzerland, on Sept. 6, 1952. It entered into force for the United States on Sept. 16, 1955.

The text of the Convention is as follows: The Contracting States,

Moved by the desire to assure in all countries copyright protection of literary, scientific and artistic works,

Convinced that a system of copyright protection appropriate to all nations of the world and expressed in a universal convention, additional to, and without impairing international systems already in force, will ensure respect for the rights of the individual and encourage the development of literature, the sciences and the arts,

Persuaded that such a universal copyright system will facilitate a wider dissemination of works of the human mind and increase international understanding,

Have agreed as follows:

Article I

Each Contracting State undertakes to provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture.

Article II

1. Published works of nationals of any Contracting State and works first published in that State shall enjoy in each other Contracting State the same protection as that other State accords to works of its nationals first published in its own territory.

2. Unpublished works of nationals of each Contracting State shall enjoy in each other Contracting State the same protection as that other State accords to unpublished works of its own nationals.

3. For the purpose of this Convention any Contracting State may, by domestic legislation, assimilate to its own nationals any person domiciled in that State.

Article III

1. Any Contracting State which, under its domestic law, requires as a condition of copyright, compliance with formalities such as deposit, registration, notice, notarial certificates, payment of fees or manufacture or publication in that Contracting State, shall regard these requirements as satisfied with respect to all works protected in accordance with this Convention and first published outside its territory and the author of which is not one of its nationals, if from the time of the first publication all the copies of the work published with the authority of the author or other copyright proprietor bear the symbol © accompanied by the name of the copyright proprietor and the year of first publication placed in such manner and location as to give reasonable notice of claim of copyright.

2. The provisions of paragraph 1 of this article shall not preclude any Contracting State from requiring formalities or other conditions for the acquisition and enjoyment of copyright in respect of works first published in its territory or works of its nationals wherever published.

3. The provisions of paragraph 1 of this article shall not preclude any Contracting State from providing that a person seeking judicial relief must, in bringing the action, comply with procedural requirements, such as that the complainant must appear through domestic counsel or that the complainant must deposit with the court or an administrative office, or both, a copy of the work involved in the litigation; provided that failure to comply with such requirements shall not affect the validity of the copyright, nor shall any such requirement be imposed upon a national of another Contracting State if such requirement is not imposed on nationals of the State in which protection is claimed.

4. In each Contracting State there shall be legal means of protecting without formalities the unpublished works of nationals of other Contracting States.

5. If a Contracting State grants protection for more than one term of copyright and the first term is for a period longer than one of the minimum periods prescribed in article IV, such State shall not be required to comply with the provisions of paragraph 1 of this article III in respect of the second or any subsequent term of copyright.

Article IV

1. The duration of protection of a work shall be governed, in accordance with the provisions of article II and this article, by the law of the Contracting State in which protection is claimed.

2. The term of protection for works protected under this Convention shall not be less than the life of the author and 25 years after his death.

However, any Contracting State which, on the effective date of this Convention in that State, has limited this term for certain classes of works to a period computed from the first publication of the work, shall be entitled to maintain these exceptions and to extend them to other classes of works. For all these classes the term of protection shall not be less than 25 years from the date of first publication.

Any Contracting State which, upon the effective date of this Convention in that State, does not compute the term of protection upon the basis of the life of the author, shall be entitled to compute the term of protection from the date of the first publication of the work or from its registration prior to publication, as the case may be, provided the term of protection shall not be less than 25 years from the date of first publication or from its registration prior to publication, as the case may be.

If the legislation of a Contracting State grants two or more successive terms of protection, the duration of the first term shall not be less than one of the minimum periods specified above.

3. The provisions of paragraph 2 of this article shall not apply to photographic works or to works of applied art; provided, however, that the term of protection in those Contracting States which protect photographic works, or works of applied art in so far as they are protected as artistic works, shall not be less than ten years for each of said classes of works.

4. No Contracting State shall be obliged to grant protection to a work for a period longer than that fixed for the class of works to which the work in question belongs, in the case of unpublished works by the law of the Contracting State of which the author is a national, and in the case of published works by the law of the Contracting State in which the work has been first published.

For the purposes of the application of the preceding provision, if the law of any Contracting State grants two or more successive terms of protection, the period of protection of that State shall be considered to be the aggregate of those terms. However, if a specified work is not protected by such State during the second or any subsequent term for any reason, the other Contracting States shall not be obliged to protect it during the second or any subsequent term.

5. For the purposes of the application of paragraph 4 of this article, the work of a national of a Contracting State, first published in a non-Contracting State, shall be treated as though first published in the Contracting State of which the author is a national.

6. For the purposes of the application of paragraph 4 of this article, in case of simultaneous publication in two or more Contracting States, the work shall be treated as though first published in the State which affords the shortest term; any work published in two or more Contracting States within thirty days of its first publication shall be considered as having been published simultaneously in said Contracting States.

Article V

1. Copyright shall include the exclusive right of the author to make, publish, and authorize the making and publication of translations of works protected under this Convention.

2. However, any Contracting State may, by its domestic legislation, restrict the right of translation of writings, but only subject to the following provisions:

If, after the expiration of a period of seven years from the date of the first publication of a writing, a translation of such writing has not been published in the national language or languages, as the case may be, of the Contracting State, by the owner of the right of translation or with his authorization, any national of such Contracting State may obtain a non-exclusive license from the competent authority thereof to translate the work and publish the work so translated in any of the national languages in which it has not been published; provided that such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language are out of print.

If the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the State of which such owner is a national, or to the organization which may have been designated by the government of that State. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application.

Due provision shall be made by domestic legislation to assure to the owner of the right of translation a compensation which is just and conforms to international standards, to assure payment and transmittal of such compensation, and to assure a correct translation of the work.

The original title and the name of the author of the work shall be printed on all copies of the published translation. The license shall be valid only for publication of the translation in the territory of the Contracting State where it has been applied for. Copies so published may be imported and sold in another Contracting State if one of the national languages of such other State is the same language as that into which the work has been so translated, and if the domestic law in such other State makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a Contracting State shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee.

The license shall not be granted when the author has withdrawn from circulation all copies of the work.

Article VI

"Publication", as used in this Convention, means the reproduction in tangible form and the general distribution to the public of copies of a work from which it can be read or otherwise visually perceived.

Article VII

This Convention shall not apply to works or rights in works which, at the effective date of the Convention in a Contracting State where protection is claimed, are permanently in the public domain in the said Contracting State.

Article VIII

1. This Convention, which shall bear the date of September 6, 1952, shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization and shall remain open for signature by all States for a period of 120 days after that date. It shall be subject to ratification or acceptance by the signatory States.

2. Any State which has not signed this Convention may accede thereto.

3. Ratification, acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article IX

1. This Convention shall come into force three months after the deposit of twelve instruments of ratification, acceptance or accession, among which there shall be those of four States which are not members of the International Union for the Protection of Literary and Artistic Works.

2. Subsequently, this Convention shall come into force in respect of each State three months after that State has deposited its instrument of ratification, acceptance or accession.

Article X

1. Each State party to this Convention undertakes to adopt, in accordance with its Constitution, such measures as are necessary to ensure the application of this Convention.

2. It is understood, however, that at the time an instrument of ratification, acceptance or accession is deposited on behalf of any State, such State must be in a position under its domestic law to give effect to the terms of this Convention.

ARTICLE XI

1. An Intergovernmental Committee is hereby established with the following duties:

(a) to study the problems concerning the application and operation of this Convention;

(b) to make preparation for periodic revisions of this Convention;

(c) to study any other problems concerning the international protection of copyright, in co-operation with the various interested international organizations, such as the United Nations Educational, Scientific and Cultural Organization, the International Union for the Protection of Literary and Artistic Works and the Organization of American States;

(d) to inform the Contracting States as to its activities.

2. The Committee shall consist of the representatives of twelve Contracting States to be selected with due consideration to fair geographical representation and in conformity with the Resolution relating to this article, annexed to this Convention.

The Director-General of the United Nations Educational, Scientific and Cultural Organization, the Director of the Bureau of the International Union for the Protection of Literary and Artistic Works and the Secretary-General of the Organization of American States, or their representatives, may attend meetings of the Committee in an advisory capacity.

ARTICLE XII

The Intergovernmental Committee shall convene a conference for revision of this Convention whenever it deems necessary, or at the request of at least ten Contracting States, or of a majority of the Contracting States if there are less than twenty Contracting States.

ARTICLE XIII

Any Contracting State may, at the time of deposit of its instrument of ratification, acceptance or accession, or at any time thereafter, declare by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization that this Convention shall apply to all or any of the countries or territories for the international relations of which it is responsible and this Convention shall thereupon apply to the countries or territories named in such notification after the expiration of the term of three months provided for in article IX. In the absence of such notification, this Convention shall not apply to any such country or territory.

ARTICLE XIV

1. Any Contracting State may denounce this Convention in its own name or on behalf of all or any of the countries or territories as to which a notification has been given under article XIII. The denunciation shall be made by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. Such denunciation shall operate only in respect of the State or of the country or territory on whose behalf it was made and shall not take effect until twelve months after the date of receipt of the notification.

ARTICLE XV

A dispute between two or more Contracting States concerning the interpretation or application of this Convention, not settled by negotiation, shall, unless the States concerned agree on some other method of settlement, be brought before the International Court of Justice for determination by it.

ARTICLE XVI

1. This Convention shall be established in English, French and Spanish. The three texts shall be signed and shall be equally authoritative.

2. Official texts of this Convention shall be established in German, Italian and Portuguese.

Any Contracting State or group of Contracting States shall be entitled to have established by the Director-General of the United Nations Educational, Scientific and Cultural Organization other texts in the language of its choice by arrangement with the Director-General.

All such texts shall be annexed to the signed texts of this Convention.

ARTICLE XVII

1. This Convention shall not in any way affect the provisions of the Berne Convention for the Protection of Literary and Artistic Works or membership in the Union created by that Convention.

2. In application of the foregoing paragraph, a Declaration has been annexed to the present article. This Declaration is an integral part of this Convention for the States bound by the Berne Convention on January 1, 1951, or which have or may become bound to it at a later date. The signature of this Convention by such States shall also constitute signature of the said Declaration, and ratification, acceptance or accession by such States shall include the Declaration as well as the Convention.

ARTICLE XVIII

This Convention shall not abrogate multilateral or bilateral copyright conventions or arrangements that are or may be in effect exclusively between two or more American Republics. In the event of any difference either between the provisions of such existing conventions or arrangements and the provisions of this Convention, or between the provisions of this Convention and those of any new convention or arrangement which may be formulated between two or more American Republics after this Convention comes into force, the convention or arrangement most recently formulated shall prevail between the parties thereto. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date this Convention comes into force in such State shall not be affected.

ARTICLE XIX

This Convention shall not abrogate multilateral or bilateral conventions or arrangements in effect between two or more Contracting States. In the event of any difference between the provisions of such existing conventions or arrangements and the provisions of this Convention, the provisions of this Convention shall prevail. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date on which this Convention comes into force in such State shall not be affected. Nothing in this article shall affect the provisions of article XVII and XVIII of this Convention.

ARTICLE XX

Reservations to this Convention shall not be permitted.

ARTICLE XXI

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall send duly certified copies of this Convention to the States interested, to the Swiss Federal Council and to the Secretary-General of the United Nations for registration by him.

He shall also inform all interested States of the ratifications, acceptances and accessions which have been deposited, the date on which this Convention comes

into force, the notifications under Article XIII of this Convention, and denunciations under Article XIV.

APPENDIX DECLARATION RELATING TO ARTICLE XVII

The States which are members of the International Union for the Protection of Literary and Artistic Works, and which are signatories to the Universal Copyright Convention,

Desiring to reinforce their mutual relations on the basis of the said Union and to avoid any conflict which might result from the co-existence of the Convention of Berne and the Universal Convention,

Have, by common agreement, accepted the terms of the following declaration:

(a) Works which, according to the Berne Convention, have as their country of origin a country which has withdrawn from the International Union created by the said Convention, after January 1, 1951, shall not be protected by the Universal Copyright Convention in the countries of the Berne Union;

(b) The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union insofar as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the International Union created by the said Convention.

RESOLUTION CONCERNING ARTICLE XI

The Intergovernmental Copyright Conference

Having considered the problems relating to the Intergovernmental Committee provided for in Article XI of the Universal Copyright Convention

resolves

1. The first members of the Committee shall be representatives of the following twelve States, each of those States designating one representative and an alternate: Argentina, Brazil, France, Germany, India, Italy, Japan, Mexico, Spain, Switzerland, United Kingdom, and United States of America.

2. The Committee shall be constituted as soon as the Convention comes into force in accordance with article XI of this Convention;

3. The Committee shall elect its Chairman and one Vice-Chairman. It shall establish its rules of procedure having regard to the following principles:

(a) the normal duration of the term of office of the representatives shall be six years; with one third retiring every two years;

(b) before the expiration of the term of office of any members, the Committee shall decide which States shall cease to be represented on it and which States shall be called upon to designate representatives; the representatives of those States which have not ratified, accepted or acceded shall be the first to retire;

(c) the different parts of the world shall be fairly represented;

and expresses the wish

that the United Nations Educational, Scientific, and Cultural Organization provide its Secretariat.

In faith whereof the undersigned, having deposited their respective full powers, have signed this Convention. Done at Geneva, this sixth day of September, 1952 in a single copy.

Protocol 1 annexed to the Universal Copyright Convention concerning the application of that Convention to the works of stateless persons and refugees

The States parties hereto, being also parties to the Universal Copyright Convention (hereinafter referred to as the "Convention") have accepted the following provisions:

1. Stateless persons and refugees who have their habitual residence in a State party to this Protocol shall, for the purposes of the Convention, be assimilated to the nationals of that State.

2. (a) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of article VIII of the Convention applied hereto.

(b) This Protocol shall enter into force in respect of each State, on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the Convention with respect to such State, whichever is the later.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva this sixth day of September, 1952, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of Unesco. The Director-General shall send certified copies to the signatory States, to the Swiss Federal Council and to the Secretary-General of the United Nations for registration.

Protocol 2 annexed to the Universal Copyright Convention, concerning the application of that Convention to the works of certain international organizations

The State parties hereto, being also parties to the Universal Copyright Convention (hereinafter referred to as the "Convention"),

Have accepted the following provisions:

1. (a) The protection provided for in article II (1) of the Convention shall apply to works published for the first time by the United Nations, by the Specialized Agencies in relationship therewith, or by the Organisation of American States;

(b) Similarly, article II (2) of the Convention shall apply to the said organisation or agencies.

2. (a) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of article VIII of the Convention applied hereto.

(b) This Protocol shall enter into force for each State on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the Convention with respect to such State, whichever is the later.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva, this sixth day of September, 1952, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of the Unesco.

The Director-General shall send certificated copies to the signatory States, to the Swiss Federal Council, and to the Secretary-General of the United Nations for registration.

Protocol 3 annexed to the Universal Copyright Convention concerning the effective date of instruments of ratification or acceptance of or accession to that Convention

States parties hereto,

Recognizing that the application of the Universal Copyright Convention (hereinafter referred to as the "Convention") to States participating in all the international copyright systems already in force will contribute greatly to the value of the Convention;

Have agreed as follows:

1. Any State party hereto may, on depositing its instrument of ratification or acceptance of or accession to the Convention, notify the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as "Director-General") that that instrument shall not take effect for the purposes of Article IX of the Convention until any other State named in such notification shall have deposited its instrument.

2. The notification referred to in paragraph 1 above shall accompany the instrument to which it relates.

3. The Director-General shall inform all States signatory or which have then acceded to the Convention of any notifications received in accordance with this Protocol.

4. This Protocol shall bear the same date and shall remain open for signature for the same period as the Convention.

5. It shall be subject to ratification or acceptance by the signatory States. Any State which has not signed this Protocol may accede thereto.

6. (a) Ratification or acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General.

(b) This Protocol shall enter into force on the date of deposit of not less than four instruments of ratification or acceptance or accession. The Director-General shall inform all interested States of this date. Instruments deposited after such date shall take effect on the date of their deposit.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva, the sixth day of September 1952, in the English, French and the Spanish languages, the three texts being equally authoritative, in a single copy which shall be annexed to the original copy of the Convention. The Director-General shall send certified copies to the signatory States to the Swiss Federal council, and to the Secretary-General of United Nations for registration.

Particular Proclamations, Treaties and Conventions Establishing Copyright Relations Between the United States of America and Other Countries

(Revised to January 1, 1976)

By virtue of presidential proclamations, treaties, and conventions, the United States has established copyright relations with various other countries. This appendix is an attempt to present a complete and annotated list of those countries. Treaties and conventions on the subject of copyright relations in force January 1, 1961, are also included in the preceding pages under appropriate country or subject headings.

Proclamations by the President of the United States extending copyright protection, upon compliance with the provisions of the United States copyright law, to the works of foreign authors prior to July 1, 1909, were issued pursuant to section 13 of the Act of March 3, 1891 (26 Stat. 1106) and those issued subsequent to July 1, 1909, were issued under the provisions of sections 1(e) and 8(b) of the Act of March 4, 1909 (35 Stat. 1075) and as later amended. Section 8(b) was amended by the Act of December 18, 1919 (41 Stat. 368) and the Act of September 25, 1941 (55 Stat. 732). Those sections of the Act of March 4, 1909, as amended, became sections 1(e) and 9(b), respectively, of Title 17 of the United States Code when it was codified and enacted into positive law by the Act of July 30, 1947 (61 Stat. 652). A number of the proclamations were preceded or accompanied by exchanges of diplomatic notes which served as the basis for their issuance. Such exchanges of notes, if in force January 1, 1958, and if printed in the official pamphlet series, are included in the preceding pages under appropriate country and subject headings.

The period for compliance with the conditions and formalities prescribed by the copyright law was extended by proclamation with respect to certain works in the case of a number of countries because of the disruption or suspension of facilities essential for such compliance during World War I and World War II. In the case of World War I this period was extended by proclamations issued under the Act of December 18, 1919 (41 Stat. 368) to fifteen months after the proclamation of peace, as to works published after August 1, 1914, and before the proclamation of peace. In the case of World War II, this period was extended by proclamations issued under the Act of September 25, 1941 (55 Stat. 732) until such time as terminated or suspended, either by the terms of the proclamation itself or by the issuance of a subsequent proclamation. A number of the proclamations issued under the 1919 Act and all of the proclamations issued under the 1941 Act or section 9(b) of title 17 of the United States Code refer to rights previously granted.

KEY TO SYMBOLS

Proclamations

P	Proclamation issued pursuant to section 13 of the Act of March 3, 1891, Section 8(b) of the Act of March 4, 1909, and as amended, or Section 9(b) of Title 17 of the United States Code.
Pm	Proclamation including mechanical reproduction rights for music under Section 1(e) of the United States copyright law.
Px	Proclamation providing an extension of time under the Act of December 18, 1919, for compliance with the conditions and formalities prescribed by the United States copyright law.
Pmx	Proclamation specifically including provisions similar to those contained in both "Pm" and "Px" proclamations.
Pxx	Proclamation providing an extension of time under the Act of September 25, 1941, for compliance with the conditions and formalities prescribed by the United States copyright law.
Po	Proclamation specifically issued for the purpose of terminating a proclamation issued under the Act of September 25, 1941.

Treaties and Conventions

BAC	Buenos Aires Convention. Convention on literary and artistic copyright signed at the Fourth International Conference of American States at Buenos Aires August 11, 1910.
MCC	Mexico City Convention. Convention on literary and artistic copyrights signed at the Second International Conference of American States at Mexico January 27, 1902.
UCC	Universal Copyright Convention. Done at Geneva September 6, 1952.
UCC rev.	Universal Copyright Convention, revised. Done at Paris July 24, 1971.
C	Bilateral convention.
Cm	Bilateral convention including provisions covering mechanical reproduction rights for music.
T	Treaty relating in part to copyright.

Proclamations, Treaties, and Conventions Establishing Copyright Relations Between the United States and Other Countries

Country	Document	Date of document	Date effective	Reference
Algeria	UCC	Sept. 6, 1952	Aug. 28, 1973	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Andorra	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Argentina	Pm	Aug. 23, 1934	Aug. 23, 1934	49 Stat. 3413.
	BAC	Aug. 11, 1910	Apr. 19, 1950	38 Stat. 1785.
	UCC	Sept. 6, 1952	Feb. 13, 1958	6 UST 2731.
Australia [1]	Pm	Apr. 3, 1918	Mar. 15, 1918	40 Stat. 1764.
	Pxx [2]	Dec. 29, 1949	Dec. 29, 1949	64 Stat. A385.
	UCC	Sept. 6, 1952	May 1, 1969	6 UST 2731.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Austria [2]	P	Sept. 20, 1907	Sept. 20, 1907	35 Stat. 2155.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Px	May 25, 1922	May 25, 1922	42 Stat. 2273.
	Pm	Mar. 11, 1925	Aug. 1, 1920	44 Stat. 2571.
	UCC	Sept. 6, 1952	July 2, 1957	6 UST 2731.
Bangladesh	UCC	Sept. 6, 1952	Aug. 5, 1975	6 UST 2731.
Belgium	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	June 14, 1911	.....do.....	37 Stat. 1688.
	UCC	Sept. 6, 1952	Aug. 31, 1960	6 UST 2731.
Bolivia	BAC	Aug. 11, 1910	May 15, 1914	38 Stat. 1785.
Brazil	BAC	.....do.....	Aug. 31, 1915	Do.
	Pm	Apr. 2, 1957	Apr. 2, 1957	8 UST 424.
	UCC	Sept. 6, 1952	Jan. 13, 1960	6 UST 2731.
	UCC rev.	July 24, 1971	Dec. 11, 1975	25 UST 1341.
Bulgaria	UCC	Sept. 6, 1952	June 7, 1975	6 UST 2731.
	UCC rev.	July 24, 1971	June 7, 1975	25 UST 1341.
Cambodia	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Cameroon	UCC	Sept. 6, 1952	May 1, 1973	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 134.
Canada [1]	Pm	Dec. 27, 1923	Jan. 1, 1924	43 Stat. 1932.
	UCC	Sept. 6, 1952	Aug. 10, 1962	6 UST 2731.
Chile	P	May 25, 1896	May 25, 1896	29 Stat. 880.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Nov. 18, 1925	July 1, 1925	44 Stat. 2590.
	BAC	Aug. 11, 1910	June 14, 1955	38 Stat. 1785.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
China	T [4]	Oct. 8, 1903	Jan. 13, 1904	33 Stat. 2208.
	T [4]	Nov. 4, 1946	Nov. 30, 1948	63 Stat. 1299.
Colombia	BAC	Aug. 11, 1910	Dec. 23, 1936	38 Stat. 1785.
	UCC	Sept. 6, 1952	June 18, 1976	6 UST 2721.
	UCC rev.	July 24, 1971	.....do.....	25 UST 1341.
Costa Rica	P	Oct. 19, 1899	Oct. 19, 1899	31 Stat. 1955.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Nov. 30, 1916	38 Stat. 1785.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Cuba	P	Nov. 17, 1903	Nov. 17, 1903	33 Stat. 2324.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Nov. 27, 1911	May 29, 1911	37 Stat. 1721.
	UCC	Sept. 6, 1952	June 18, 1957	6 UST 2731.
Czechoslovakia.	Pm	Apr. 27, 1927	Mar. 1, 1927	45 Stat. 2906.
	UCC	Sept. 6, 1952	Jan. 6, 1960	6 UST 2731.
Danzig	Pm	Apr. 7, 1934	Apr. 7, 1934	48 Stat. 1737.
Denmark [5]	P	May 8, 1893	May 8, 1893	28 Stat. 1219.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pmx	Dec. 9, 1920	Dec. 9, 1920	41 Stat. 1810.
	Pxx	Feb. 4, 1952	Feb. 4, 1952	66 Stat. C20.
	UCC	Sept. 6, 1952	Feb. 9, 1962	6 UST 2731.
Dominican Republic.	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Oct. 31, 1912	38 Stat. 1785.
Ecuador	BAC	.....do.....	Aug. 31, 1914	Do.
	UCC	Sept. 6, 1952	June 5, 1957	6 UST 2731.
El Salvador	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
Fiji	UCC	Sept. 6, 1952	May 4, 1963	6 UST 2731.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Finland	Pm	Dec. 15, 1928	Jan. 1, 1929	45 Stat. 2980.
	Pxx	Nov. 16, 1951	Nov. 16, 1951	66 Stat. C5.
	UCC	Sept. 6, 1952	Apr. 16, 1963	6 UST 2731.
France [6]	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	May 24, 1918	May 24, 1918	40 Stat. 1784.
	Pxx	Mar. 27, 1947	Mar. 27, 1947	61 Stat. 1057.
	Po	May 26, 1950	Dec. 29, 1950	64 Stat. A413.
	UCC	Sept. 6, 1952	Jan. 14, 1956	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
German Dem. Rep.	UCC	Sept. 6, 1952	Oct. 5, 1973	6 UST 2731.
Germany [3]	P	Apr. 15, 1892	Apr. 15, 1892	27 Stat. 1021.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Dec. 8, 1910	Dec. 8, 1910	36 Stat. 2761.
	Px	May 25, 1922	May 25, 1922	42 Stat. 2271.
Germany, Fed. Rep.	Pxx	July 12, 1967	July 12, 1967	18 UST 2369.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
	UCC rev.	July 24, 1971	July 24, 1974	25 UST 1341.
Ghana	UCC	Sept. 6, 1952	Aug. 22, 1962	6 UST 2731.
Greece	Pm	Feb. 23, 1932	Mar. 1, 1932	47 Stat. 2502.
	UCC	Sept. 6, 1952	Aug. 24, 1963	6 UST 2731.
Guatemala	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Mar. 28, 1913	38 Stat. 1785.
	UCC	Sept. 6, 1952	Oct. 28, 1964	6 UST 2731.
Haiti	BAC	Aug. 11, 1910	Nov. 27, 1919	38 Stat. 1785.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Holy See	UCC	.....do.....	Oct. 5, 1955	Do.
Honduras	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Apr. 27, 1914	38 Stat. 1785.
Hungary [3]	Cm [7]	Jan. 30, 1912	Oct. 16, 1912	37 Stat. 1631.
	Px	June 3, 1922	June 3, 1922	42 Stat. 2277.
	T [8,9]	Feb. 10, 1947	Sept. 15, 1947	61 Stat. 2065.
	UCC	Sept. 6, 1952	Jan. 23, 1971	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Iceland	UCC	Sept. 6, 1952	Dec. 18, 1956	6 UST 2731.
India [1,10]	Pm	Oct. 21, 1954	Aug. 15, 1947	5 UST 2529.
	UCC	Sept. 6, 1952	Jan. 21, 1958	6 UST 2731.
Ireland [1]	Pm [11]	Sept. 28, 1929	Oct. 1, 1929	46 Stat. 3005.
	UCC	Sept. 6, 1952	Jan. 20, 1959	6 UST 2731.
Israel [12]	Pm	May 4, 1950	May 15, 1948	64 Stat. A402.
	UCC	Dec. 16, 1952	Sept. 16, 1955	6 UST 2731.
Italy	P [13]	Oct. 31, 1892	Oct. 31, 1892	27 Stat. 1043.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm [13]	May 1, 1915	May 1, 1915	39 Stat. 1725.
	Px	June 3, 1922	June 3, 1922	42 Stat. 2276.
	T [8,14]	Feb. 10, 1947	Sept. 15, 1947	61 Stat. 1245.
	Pxx	Dec. 12, 1951	Dec. 12, 1951	66 Stat. C13.
	UCC	Sept. 6, 1952	Jan. 24, 1957	6 UST 2731.
Japan	C [15]	Nov. 10, 1905	May 10, 1906	34 Stat. 2890.
	C [16]	May 19, 1908	Aug. 16, 1908	35 Stat. 2044.
	T [17]	Sept. 8, 1951	Apr. 28, 1952	3 UST 3169.
	Pm [18]	Nov. 10, 1953	.....do.....	5 UST 118.
	UCC	Sept. 6, 1952	Apr. 28, 1956	6 UST 2731.
Kenya	UCC	Sept. 6, 1952	Sept. 7, 1966	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Korea	C [19]	May 19, 1908	Aug. 16, 1908	35 Stat. 2041.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Laos	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Lebanon	UCC	.....do.....	Oct. 17, 1959	Do.
Liberia	UCC	.....do.....	July 27, 1956	Do.
Leichtenstein	UCC	.....do.....	Jan. 22, 1959	Do.
Luxembourg	P	June 29, 1910	June 29, 1910	36 Stat. 2716.
	Pm	June 14, 1911	June 29, 1910	37 Stat. 1689.
	UCC	Sept. 6, 1952	Oct. 15, 1955	6 UST 2731.
Malawi	UCC	Sept. 6, 1952	Oct. 26, 1965	6 UST 2731.
Malta	UCC	Sept. 6, 1952	Nov. 19, 1968	6 UST 2731.
Mauritius	UCC	Sept. 6, 1952	Mar. 12, 1968	6 UST 2731.
Mexico	P	Feb. 27, 1896	Feb. 27, 1896	29 Stat. 877.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	UCC	Sept. 6, 1952	May 12, 1957	6 UST 2731.
	UCC rev.	July 24, 1971	Oct. 31, 1975	25 UST 1341.
Monaco	Pm	Oct. 15, 1952	Oct. 15, 1952	67 Stat. C16.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
	UCC rev.	July 24, 1971	Dec. 13, 1974	25 UST 1341.
Morocco	UCC	Sept. 6, 1952	May 8, 1972	6 UST 2731.
	UCC rev.	July 24, 1971	Jan. 28, 1976	25 UST 1341.
Netherlands and Possessions.[20]	P	Nov. 20, 1899	Nov. 20, 1899	31 Stat. 1961.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Feb. 26, 1923	Oct. 2, 1922	42 Stat. 2297.
New Zealand[1]	Pm	Feb. 9, 1917	Dec. 1, 1916	39 Stat. 1815.
	Px	May 25, 1922	May 25, 1922	42 Stat. 2274.
	Pxx	Apr. 24, 1947	Apr. 24, 1947	61 Stat. 1065.
	Po	May 26, 1950	Dec. 29, 1950	64 Stat. A414.
	UCC	Sept. 6, 1952	Sept. 11, 1964	6 UST 2731.
Nicaragua	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Dec. 15, 1913	38 Stat. 1785.
	UCC	Sept. 6, 1952	Aug. 16, 1961	6 UST 2731.
Nigeria	UCC	.....do.....	Feb. 14, 1962	Do.
Norway	P	July 1, 1905	July 1, 1905	34 Stat. 3111.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	June 14, 1911	Sept. 9, 1910	37 Stat. 1687.
	UCC	Sept. 6, 1952	Jan. 23, 1963	6 UST 2731.
	UCC rev.	July 24, 1971	Aug. 7, 1974	25 UST 1341.
Pakistan	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Palestine (excluding Trans-Jordan).	Pm	Sept. 29, 1933	Oct. 1, 1933	48 Stat. 1713. 58 Stat. 1129.
	Pxx[12]	Mar. 10, 1944	Mar. 10, 1944	64 Stat. A412.
	Po[12]	May 26, 1950	Dec. 29, 1950	
Panama	BAC	Aug. 11, 1910	Nov. 25, 1913	38 Stat. 1785.
	UCC	Sept. 6, 1952	Oct. 17, 1962	6 UST 2731.
Paraguay	BAC	Aug. 11, 1910	Sept. 20, 1917	38 Stat. 1785.
	UCC	Sept. 6, 1952	Mar. 11, 1962	6 UST 2731.
Peru	BAC	Aug. 11, 1910	Apr. 30, 1920	38 Stat. 1785.
	UCC	Sept. 6, 1952	Oct. 16, 1963	6 UST 2731.
Philippines	Pm	Oct. 21, 1948	Oct. 21, 1948	62 Stat. 1568.
	UCC[21]	Sept. 6, 1952		6 UST 2731.
Poland	Pm	Feb. 14, 1927	Feb. 16, 1927	44 Stat. 2634.
Portugal	P	July 20, 1893	July 20, 1893	28 Stat. 1222.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	UCC	Sept. 6, 1952	Dec. 25, 1956	6 UST 2731.
Rumania	Pm[22]	May 14, 1928	May 14, 1928	45 Stat. 2949.
	T[a][23]	Feb. 10, 1947	Sept. 15, 1947	61 Stat. 1757.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Senegal	UCC	Sept. 6, 1952	July 10, 1974	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
South Africa[1]	Pm	June 26, 1924	July 1, 1924	43 Stat. 1957.
Spain[5]	P[24]	July 10, 1895	July 10, 1895	29 Stat. 871.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Oct. 10, 1934	Oct. 10, 1934	49 Stat. 3420.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Sweden	P	May 26, 1911	June 1, 1911	37 Stat. 1682.
	Pm	Feb. 27, 1920	Feb. 1, 1920	41 Stat. 1787.
	UCC	Sept. 6, 1952	July 1, 1961	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Switzerland	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Nov. 22, 1924	July 1, 1923	43 Stat. 1976.
	UCC	Sept. 6, 1952	Mar. 30, 1956	6 UST 2731.
Thailand	T[25]	Dec. 16, 1920	Sept. 1, 1921	42 Stat. 1928.
	T[25]	Nov. 13, 1937	Oct. 1, 1938	53 Stat. 1731.
	T[25]	May 29, 1966	June 8, 1968	19 UST 5843.
Tunisia	P	Oct. 4, 1912	Oct. 4, 1912	37 Stat. 1765.
	UCC	Sept. 6, 1952	June 19, 1969	6 UST 2731.
	UCC rev.	July 24, 1971	June 10, 1975	25 UST 1341.
Union of Soviet Socialist Reps.	UCC	Sept. 6, 1952	May 27, 1973	6 UST 2731.
United Kingdom.	UCC	Sept. 6, 1952	Sept. 27, 1957	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
United Kingdom and Possessions.[1]	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
United Kingdom and the British Dominions, Colonies and Possessions with the exception of Canada, Australia, New Zealand, South Africa and Newfoundland.[1]	Pm	Jan. 1, 1915	Jan. 1, 1915	38 Stat. 2044. 41 Stat. 1790.
	Pmx	Apr. 10, 1920	Feb. 2, 1920	
United Kingdom, certain British Territories[1] and Palestine[12]	Pxx	Mar. 10, 1944	Mar. 10, 1944	58 Stat. 1129. 64 Stat. A412.
	Po	May 26, 1950	Dec. 29, 1950	
Uruguay	BAC	Aug. 11, 1910	Dec. 17, 1919	38 Stat. 1785.
Venezuela	UCC	Sept. 6, 1952	Sept. 30, 1966	6 UST 2731.
Yugoslavia	UCC	Sept. 6, 1952	May 11, 1966	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Zambia	UCC	Sept. 6, 1952	June 1, 1965	6 UST 2731.

[1] The proclamations of July 1, 1891 and April 9, 1910 apply to "Great Britain and the British possessions", but the proclamations of January 1, 1915 and April 10, 1920 specifically except Australia, Canada, Newfoundland, New Zealand and South

Africa. The proclamations of March 10, 1944 and May 26, 1950 enumerate the various British territories to which they apply, excluding the areas specifically excepted in the proclamations of 1915 and 1920. Proclamations establishing individual copyright relations with Australia, Canada, Ireland, New Zealand, Palestine, and South Africa are listed separately. (See also footnotes 2, 11, 12.)

The proclamation of December 27, 1923 regarding Canada is considered as applying to Newfoundland at the present time.

The copyright proclamations of July 1, 1891, April 9, 1910, January 1, 1915, April 10, 1920, and March 10, 1944 regarding Great Britain and possessions each applied when issued to the areas now within the boundaries of Burma, Ceylon, India, and Pakistan. See footnote 10 with respect to India. No announcement has been made as to the application of the proclamations to Burma, Ceylon, and Pakistan since they acquired their new status.

[2]The proclamation of December 29, 1949 extends for one year from its date the period of time for compliance by citizens of Australia with the conditions and formalities prescribed by the copyright law of the United States.

[3]The United States entered into treaties restoring friendly relations with Austria, Germany, and Hungary at Vienna on August 24, 1921 (42 Stat. 1946; TS 659); at Berlin on August 25, 1921 (42 Stat. 1939; TS 658) and at Budapest on August 29, 1921 (42 Stat. 1951; TS 610), respectively. By virtue of these treaties the United States became entitled to the benefits of the provisions relative to copyright protection in the treaties of peace signed by Austria, Germany and Hungary at Saint-Germain-en-Laye on September 10, 1919, at Versailles on June 28, 1919, and at Trianon on June 4, 1920, respectively. (See also footnote 7.)

[4]The Treaty of Friendship, Commerce and Navigation (Art. IX) together with the Protocol (par. 5) signed at Nanking November 4, 1946, and the reservation and understandings in the ratification by the United States (TIAS 1871) govern present copyright relations between the United States and China. Although Article XXIX of this Treaty lists the earlier Treaty as to Commercial Relations signed at Shanghai October 8, 1903 (33 Stat. 2208, TS 430) as superseded by the 1946 Treaty, the ratification by the United States provides in part that the 1946 Treaty is subject to the following reservation and understandings: "The Government of the United States of America does not accept Section 5(c) of the Protocol relating to protection against translations of literary and artistic works, and with the understanding that United States interests in this respect will be interpreted in accordance with the provisions of the Treaty as to Commercial Relations signed at Shanghai, October 8, 1903, until further negotiations and agreement concerning translations are forthcoming."

[5]Treaties and Conventions containing provisions relative to copyright protection in territories ceded to the United States are not included in this table: for example, the Treaty of Peace with Spain signed at Paris December 10, 1898 (30 Stat. 1754; TS 343), Art. XIII (see also footnote 25); and the Convention with Denmark for the Cession to the United States of the Danish West Indies, signed at New York, August 4, 1916 (39 Stat. 1706; TS 629), Art. 9.

[6]The Department of State has made no announcement as to the application of the proclamations of July 1, 1891, April 9, 1910, May 24, 1918, and March 27, 1947 to Cambodia, Laos, and Viet-Nam.

[7]Copyright Convention signed at Budapest January 30, 1912 (TS 571). This Convention was continued in force following World War I by notice given by the United States on May 27, 1922 to Hungary in pursuance of Article 224 of the Treaty of Trianon concluded on June 4, 1920 (III Redmond 3539), to the benefits of which the United States became entitled by the Treaty of August 29, 1921 establishing friendly relations between the United States and Hungary (42 Stat. 1951; TS 660). The Convention of 1912 was kept in force or revived following World War II by notice given on March 9, 1948 by the United States to Hungary pursuant to Article 10 of the Treaty of Peace with Hungary (61 Stat. 2065; Department of State Bulletin March 21, 1948; p. 382).

[8]Treaty of Peace with Hungary (Annex IV A) dated at Paris February 10, 1947 (TIAS 1651).

[9]Except with respect to rights of third parties, the provisions relating to protection of copyright in the annexes to the Treaties of Peace with Hungary, Italy, and Rumania dated at Paris February 10, 1947, are bilateral in character. For example, the provisions of Annex IV A of the Treaty of Peace with Hungary, relate in general, to copyright relations between Hungary on the one part, and each of the other ratifying or adhering States, on the other part. Those provisions do not pertain to copyright relations between those other States, except for third party rights (see also footnotes 13 and 19). Annex IV of the Treaty of Peace with Bulgaria dated at Paris February 10, 1947 (61 Stat. 1915; TIAS 1650) contains similar provisions; however, there are no general copyright relations between the United States and Bulgaria.

[10]The proclamation of October 21, 1954 affirms the existence of copyright relations with India after August 15, 1947 (the effective date of the Indian Independence Act), as before that date (see footnote 1).

[11]The Department of State has determined that the entry into force on April 18, 1949 of the Republic of Ireland Act had no effect upon the proclamation of September 28, 1929 regarding the Irish Free State (Eire). Copyright relations with Ireland are therefore governed by that proclamation (see also footnote 1).

[12]The proclamations of March 10, 1944 and May 26, 1950 regarding Great Britain and possessions, also specifically refer to Palestine, excluding Trans-Jordan.

[13]The exchanges of notes between the United States and Italy, on the basis of which the proclamations of October 31, 1892 and May 1, 1915 were issued, were the subject of a note delivered on March 12, 1948 to the Italian Foreign Office by the American Embassy at Rome with respect to prewar bilateral treaties and other international agreements which the United States desired to keep in force or revive pursuant to Article 44 of the Treaty of Peace with Italy. The note stated in part "that the Government of the United States of America wishes to include the reciprocal copyright arrangement between the United States and Italy effected pursuant to the exchange of notes signed at Washington October 28, 1892 and the exchange of notes signed at Washington September 2, 1914, February 12, March 4 and March 11, 1915, among the prewar bilateral treaties and other international agreements with Italy which the United States desires to keep in force or revive. Accordingly, it is understood that the aforementioned arrangement will continue in force and that the Government of each country will extend to the nationals of the other country treatment as favorable with respect to copyright as was contemplated at the time the arrangement was entered into by the two countries". (Department of State Bulletin, April 4, 1948, p. 455.)

[14]Treaty of Peace with Italy (Annex XV A) dated at Paris January 10, 1947 (TIAS 1648).

[15]Copyright Convention, signed at Tokyo November 10, 1905 (TS 450).

This convention is considered as having been abrogated on April 22, 1953, pursuant to the provisions of Article 7 of the Treaty of Peace with Japan signed at San Francisco September 8, 1951 (TIAS 2490), since it was not included in the notification which was given on behalf of the United States Government to the Japanese Government on April 22, 1953, indicating the prewar bilateral treaties or conventions which the United States wished to continue in force or revive.

[16]Convention between the United States and Japan for reciprocal protection of inventions, designs, trademarks and copyrights in China and other countries where either contracting party may exercise extraterritorial jurisdiction, signed at Washington May 19, 1908 (TS 507).

This convention is considered as having been abrogated on April 22, 1953, pursuant to the provisions of Article 7 of the Treaty of Peace with Japan signed at San Francisco September 8, 1951 (TIAS 2490), since it was not included in the notification which was given on behalf of the United States Government to the Japanese Government on April 22, 1953, indicating the prewar bilateral treaties or conventions which the United States wished to continue in force or revive.

[17]Treaty of Peace with Japan (Articles 12, 14 and 15) signed at San Francisco September 8, 1951 (TIAS 2490). (See also footnotes 15, 16 and 19.)

[18]The proclamation of November 10, 1953 extends benefits under the copyright law for a period of four years from the coming into force of the Treaty of Peace with Japan (TIAS 2490). That period expired April 28, 1956.

[19]Copyright Convention with Japan for reciprocal protection in Korea of inventions, designs, trademarks and copyrights signed at Washington May 19, 1908 (TS 506).

This convention is considered as having been abrogated on April 22, 1953, pursuant to the provisions of Article 7 of the Treaty of Peace with Japan signed at San Francisco September 8, 1951 (TIAS 2490), since it was not included in the notification which was given on behalf of the United States Government to the Japanese Government on April 22, 1953, indicating the prewar bilateral treaties or conventions which the United States wished to continue in force or revive.

[20]The Department of State has made no announcement as to the application of the proclamations of November 20, 1899, April 9, 1910 and February 26, 1923 to Indonesia since it acquired its new status.

[21]An instrument of accession was deposited by the Philippine Government August 19, 1955. In a communication received by the State Department January 17, 1956, UNESCO stated that by a note dated November 14, 1955, the Philippine Government informed the Director General that "the President of the * * * Philippines has directed the withdrawal of the * * * accession * * * to the Universal Copyright Convention prior to the date of November 19, 1955, at which time the Convention would

become effective" for the Philippines. The Director General notified the Philippine Government that he "proposed to submit their communication to the States concerned, upon whom it is incumbent to declare what legal inference they intend to draw from it."

[22] In a note delivered February 26, 1948 to the Rumanian Minister for Foreign Affairs by the American Minister at Bucharest with respect to prewar bilateral treaties and other international agreements which the United States desired to keep in force or revive pursuant to Article 10 of the Treaty of Peace with Rumania (see footnotes 9 and 24), the following statement was made regarding the proclamation of May 14, 1928 and the exchange of notes on which it is based: "It shall be understood that the reciprocal copyright arrangement between the United States and Rumania effected pursuant to the exchange of notes signed at Bucharest May 13 and October 13, 1928 and at Washington May 12 and 19, 1928 and the proclamation issued May 14, 1928 by the President of the United States of America will continue in force." (Department of State Bulletin, March 14, 1948, p. 356).

[23] Treaty of Peace with Rumania, dated at Paris, February 10, 1947 (TIAS 1649).

[24] The proclamation of July 10, 1895, regarding Spain was based upon an arrangement between the United States and Spain effected by an exchange of notes signed at Washington July 6 and 15, 1895. An agreement restoring the arrangement of July 6 and 15, 1895 was effected by an exchange of notes signed at Madrid January 29 and November 18 and 26, 1902 (II Malloy 1710), following the Treaty of Peace between the United States and Spain signed at Paris December 10, 1898 (30 Stat. 1754; TS 343). The latter treaty also contains in Article XIII the following provisions: "The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Puerto Rico, the Philippines and other ceded territories, at the time of the exchange of ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of ratifications of this treaty."

[25] Treaty of friendship, commerce and navigation, protocol and exchanges of notes, signed at Bangkok November 13, 1937 (Art. 9 of the Treaty) (TS 940). This treaty replaces the treaty of friendship, commerce and navigation between the United States and Thailand signed at Washington December 16, 1920 (TS 655), Article XII of which contains provisions relating to copyright protection. The treaty of amity and economic relations, with three exchanges of notes between the United States and Thailand signed at Bangkok May 29, 1966 (TIAS 6540) replaces the treaty of November 13, 1937. Article V.2 contains provisions relating to copyright.

Proc. No. 3792. Copyright Extension: Germany

Proc. No. 3792, July 12, 1967, 32 F.R. 10341, provided:

Whereas the President is authorized, in accordance with the conditions prescribed in Section 9 of Title 17 of the United States Code which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

Whereas satisfactory official assurances have been received that, since April 15, 1892, citizens of the United States have been entitled to obtain copyright in Germany for their works on substantially the same basis as German citizens without the need of complying with any formalities, provided such works secured protection in the United States; and

Whereas, pursuant to Article 2 of the Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 3, 1950, restored to such United States nationals or their legal successors; and

Whereas, pursuant to Article 5 of the aforesaid law, any literary or artistic property right in Germany owned by a United States national at the commencement of or during the state of war between Germany and the United States of America was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came in existence, to September 30, 1949; and

Whereas, by virtue of a proclamation by the President of the United States of America dated May 25, 1922, 42 Stat. 2271, German citizens are and have been entitled to the benefits of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended, including the benefits of Section 1(e) of the aforementioned Title 17 of the United States Code [section 1(e) of former Title 17]; and

Whereas, a letter of February 6, 1950, from the Chancellor of the Federal Republic of Germany to the Chairman of the Allied High Commission for Germany established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America:

Now, Therefore, I, Lyndon B. Johnson, President of the United States of America, by virtue of the authority vested in me by Section 9 of Title 17 of the United States Code [section 9 of former Title 17], do declare and proclaim:

(1) That, with respect to works first produced or published outside the United States of America: (a) where the work was subject to copyright under the laws of the United States of America on or after September 3, 1939, and on or before May 5, 1956, by an author or other owner who was then a German citizen; or (b) where the work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, and on or before May 5, 1956, by an author or other person specified in Sections 24 and 25 of the aforesaid Title 17 [sections 24 and 25 of former Title 17], who was then a German citizen, there has existed during several years of the aforementioned period such disruption and suspension of facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of Section 9(b) of the aforesaid Title 17 [section 9(b) of former Title 17]; and

(2) That, in view of the reciprocal treatment accorded to citizens of the United States by the Federal Republic of Germany, the time within which persons who are presently German citizens may comply with such conditions and formalities with respect to such works is hereby extended for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation. It shall also be understood that, as provided by Section 9(b) of Title 17, United States Code [section 9(b) of former Title 17], no liability shall attach under that title for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or with respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation or performance of any such works.

In Witness Whereof, I have hereunto set my hand this twelfth day of July in the year of our Lord nineteen hundred and sixty-seven, and of the Indepen-

dence of the United States of America the one hundred and ninety-second.

LYNDON B. JOHNSON.

PRESIDENTIAL PROCLAMATIONS ISSUED UNDER PREDECESSOR PROVISIONS

Section 104 of Pub. L. 94-553 provided that: "All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President."

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 290e.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Common law rights, see section 301 of this title.

Copyright as distinct from property in object copyrighted, see section 202 of this title.

Copyright not capital asset, see section 1221 of Title 26, Internal Revenue Code.

Duration of copyright, see section 301 et seq. of this title.

Fines and penalties for wilful infringement, see section 506 of this title.

Government publications as not copyrightable, see section 105 of this title.

Preemption of other laws relating to exclusive rights within the general scope of copyright, see section 301 of this title.

Proclamation by President granting foreign authors copyright protection, see section 104 of this title.

Power of Congress to grant authors exclusive right to their writings, see Const. Art. 1, § 8, cl. 8.

Remedies for infringement of copyright, see sections 502, 503, 504, 505 of this title.

Renewal of copyright, see section 304 of this title.

Transfer of copyright, see sections 201 and 204 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107 to 110, 112 to 118, 201, 301, 501, 506, 602 of this title; title 2 section 170.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

Remittance of statutory damages, see section 504 of this title.

Use of certain works in connection with noncommercial broadcasting, see section 118 of this title.

Use of material in conjunction with computers and similar information systems, see section 117 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 108, 117, 118, 501, 504 of this title.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: *Provided,* That such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy or phonorecord under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy or phonorecord, if it exceeds fair use as provided by section 107;

(3) shall be construed to limit the reproduction and distribution by lending of a limited number of copies and excerpts by a library or archives of an audiovisual news program, subject to clauses (1), (2), and (3) of subsection (a); or

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee—

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): *Provided,* That nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c), or with respect to pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

(i) Five years from the effective date of this Act, and at five-year intervals thereafter, the Register of Copyrights, after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted

materials, and with representatives of library users and librarians, shall submit to the Congress a report setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (i), is Jan. 1, 1978.

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

Importation of copies or phonorecords by organization operated for scholarly, educational, or religious purposes and not for private gain, see section 602 of this title.

Reproduction and distribution of regularly scheduled newscasts or on-the-spot coverage of news event for research purposes by Librarian of Congress, see section 170 of Title 2, The Congress.

Use of material in conjunction with computers and similar information systems, see section 117 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501, 602 of this title; title 2 section 170.

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2548.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501 of this title.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for—

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) there is no direct or indirect admission charge; or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions;

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for the objection; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an annual agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionnaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance;

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;

(8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped person who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of: (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397 of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293–73.295 and 73.593–73.595); or (iv) a cable system (as defined in section 111(f)).

(9) performance on a single occasion of a dramatic literary work published at least ten years before the date of the performance, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of a radio subcarrier authorization referred to in clause (8)(iii), *Provided*, That the provisions of this clause shall not be applicable to more than one performance of the same work by the same performers or under the auspices of the same organization.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2549.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 111, 112, 117, 118, 501 of this title.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) Certain secondary transmissions exempted

The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) Secondary transmission of primary transmission to controlled group

Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however,* That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission; and

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) Secondary transmissions by cable systems

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d).

(3) Notwithstanding the provisions of clause (1) of this subsection and subject to the provisions of subsection (e) of this section, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcements transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the cable system through changes, deletions, or additions, except for the alteration, deletion, or substitution of commercial advertisements performed by those engaged in television commercial advertising market research: *Provided,* That the research company has obtained the prior consent of the advertiser who has purchased the original commercial advertisement, the television station broadcasting that commercial advertisement, and the cable system performing the secondary transmission: *And provided further,* That such commercial alteration, deletion, or substitution is not performed for the purpose of deriving income from the sale of that commercial time.

(4) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, if (A) with respect to Canadian signals, the community of the cable system is located more than 150 miles from the United States-Canadian border and is also located south of the forty-second parallel of latitude, or (B) with respect to Mexican signals, the secondary transmission is made by a cable system which received the primary transmission by means other than direct interception of a free space radio wave emitted by such broadcast television station, unless prior to April 15, 1976, such cable system was actually carrying, or was specifically authorized to carry, the signal of such foreign station on the system pursuant to the rules, regulations, or authorizations of the Federal Communications Commission.

(d) Compulsory license for secondary transmissions by cable systems

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable

system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), prescribe by regulation—

(A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programming that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

(B) except in the case of a cable system whose royalty is specified in subclause (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter; and

(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total $80,000 or less, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $3,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $80,000 but less than $160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts up to $80,000; and (ii) 1 per centum of any gross receipts in excess of $80,000 but less than $160,000, regardless of the number of distant signal equivalents, if any.

(3) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on a semiannual basis, a compilation of all statements of account covering the relevant six-month period provided by clause (2) of this subsection.

(4) The royalty fees thus deposited shall, in accordance with the procedures provided by clause (5), be distributed to those among the following copyright owners who claim that

their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under clause (2)(A); and

(C) any such owner whose work was included in nonnetwork programing consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

(5) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws, for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) Nonsimultaneous secondary transmissions by cable systems

(1) Notwithstanding those provisions of the second paragraph of subsection (f) relating to nonsimultaneous secondary transmissions by a cable system, any such transmissions are actionable as an act of infringement under section 501, and are fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, unless—

(A) the program on the videotape is transmitted no more than one time to the cable system's subscribers; and

(B) the copyrighted program, episode, or motion picture videotape, including the commercials contained within such program, episode, or picture, is transmitted without deletion or editing; and

(C) an owner or officer of the cable system (i) prevents the duplication of the videotape while in the possession of the system, (ii) prevents unauthorized duplication while in the possession of the facility making the videotape for the system if the system owns or controls the facility, or takes reasonable precautions to prevent such duplication if it does not own or control the facility, (iii) takes adequate precautions to prevent duplication while the tape is being transported, and (iv) subject to clause (2), erases or destroys, or causes the erasure or destruction of, the videotape; and

(D) within forty-five days after the end of each calendar quarter, an owner or officer of the cable system executes an affidavit attesting (i) to the steps and precautions taken to prevent duplication of the videotape, and (ii) subject to clause (2), to the erasure or destruction of all videotapes made or used during such quarter; and

(E) such owner or officer places or causes each such affidavit, and affidavits received pursuant to clause (2)(C), to be placed in a file, open to public inspection, at such system's main office in the community where the transmission is made or in the nearest community where such system maintains an office; and

(F) the nonsimultaneous transmission is one that the cable system would be authorized to transmit under the rules, regulations, and authorizations of the Federal Communications Commission in effect at the time of the nonsimultaneous transmission if the transmission had been made simultaneously, except that this subclause shall not apply to inadvertent or accidental transmissions.

(2) If a cable system transfers to any person a videotape of a program nonsimultaneously transmitted by it, such transfer is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, except that, pursuant to a written, nonprofit contract providing for the equitable sharing of the costs of such videotape and its transfer, a videotape nonsimultaneously transmitted by it, in accordance with clause (1), may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories, if—

(A) each such contract is available for public inspection in the offices of the cable systems involved, and a copy of such contract is filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make each such contract available for public inspection); and

(B) the cable system to which the videotape is transferred complies with clause (1)(A), (B), (C)(i), (iii), and (iv), and (D) through (F); and

(C) such system provides a copy of the affidavit required to be made in accordance with clause (1)(D) to each cable system making a previous nonsimultaneous transmission of the same videotape.

(3) This subsection shall not be construed to supersede the exclusivity protection provisions of any existing agreement, or any such agreement hereafter entered into, between a cable system and a television broadcast station in the area in which the cable system is located, or a network with which such station is affiliated.

(4) As used in this subsection, the term "videotape", and each of its variant forms, means the reproduction of the images and sounds of a program or programs broadcast by a television broadcast station licensed by the Federal Communications Commission, regardless of the nature of the material objects, such as tapes or films, in which the reproduction is embodied.

(f) Definitions

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however,* That a nonsimultaneous further transmission by a cable system located in Hawaii of a primary transmission shall be deemed to be a secondary transmission if the carriage of the television broadcast signal comprising such further transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter", in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The "local service area of a primary transmitter", in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

A "distant signal equivalent" is the value assigned to the secondary transmission of any nonnetwork television programing carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programing. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonnetwork programing so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial educational stations are subject, however, to the following exceptions and limitations. Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of this Act permit a cable system, at its election, to effect such deletion and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program; where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of enactment of this Act permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a frac-

tion that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late-night or specialty programing rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

A "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programing supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2550.)

REFERENCES IN TEXT

"After the enactment of this Act" and "date of enactment of this Act", referred to in subsecs. (d)(1) and (f), respectively, mean Oct. 19, 1976.

The antitrust laws, referred to in subsec. (d)(5)(A), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Effective date of final determinations concerning proceedings involving distribution of royalty fees, see section 809 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

Institution and conclusion of proceedings—

Distribution of royalty fees, see section 804 of this title.

Owner or users of copyrighted work whose royalty rates are specified by this section, see section 804 of this title.

Remedies for alteration of programing by cable systems, see section 510 of this title.

Royalty rate and fees—

Determination concerning adjustment of copyright royalty rate, see section 801 of this title.

Distribution of copyright royalty fees, see section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 110, 117, 501, 510, 801, 804, 809 of this title.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all de-

stroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8) to make no more than ten copies or phonorecords embodying the performance, or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), if—

(1) any such copy or phonorecord is retained and used solely by the organization that made it, or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), and no further copies or phonorecords are reproduced from it; and

(2) any such copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security; and

(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the preexisting works employed in the program.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2558.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501 of this title.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(b) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2560.)

CROSS REFERENCES

Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501 of this title.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording. The exclusive right of the owner of copyright in a sound recording under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality. The exclusive rights of the owner of copyright in a sound recording under clauses (1) and (2) of section 106 do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording. The exclusive rights of the owner of copyright in a sound recording under clauses (1), (2), and (3) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided*, That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

(d) On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organizations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section

should be amended to provide for performers and copyright owners of copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2560.)

CROSS REFERENCES

Ephemeral recordings, see section 112 of this title.
Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 112, 117, 501 of this title.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and scope of compulsory license

(1) When phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the making of phonorecords duplicating a sound recording fixed by another, unless: (i) such sound recording was fixed lawfully; and (ii) the making of phonorecords was authorized by the owner of copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of intention to obtain compulsory license

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) Failure to serve or file the notice required by clause (1) forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) Royalty payable under compulsory license

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourths cents, or one-half of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

(4) If the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty has not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2561.)

PERSONS OPERATING UNDER PREDECESSOR COMPULSORY LICENSING PROVISIONS

Section 106 of Pub. L. 94-553 provided that: "In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by the first section of this Act [this section]. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115 [this section]."

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Determinations concerning adjustment of reasonable copyright royalty rates by Copyright Royalty Tribunal, see section 801 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

Fee for notice of intention to make phonorecords, see section 708 of this title.

Institution and conclusion of proceedings concerning adjustment of royalty rates as provided in this section, see section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501, 708, 801, 804 of this title.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) Limitation on exclusive right

In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless—

(A) such proprietor is the operator of the phonorecord player; or

(B) such proprietor refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by clause (1)(C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of coin-operated phonorecord player, affixation of certificate, and royalty payable under compulsory license

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate, or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) Distribution of royalties

(1) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a detailed statement of account covering all fees received for the relevant period provided by subsection (b).

(2) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Copy-

right Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(3) After the first day of October of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(4) The fees to be distributed shall be divided as follows:

(A) to every copyright owner not affiliated with a performing rights society, the pro rata share of the fees to be distributed to which such copyright owner proves entitlement.

(B) to the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

(C) during the pendency of any proceeding under this section, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(5) The Copyright Royalty Tribunal shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Tribunal may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) Criminal penalties

Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) Definitions

As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that—

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2562.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (c)(2), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Determinations concerning adjustment of reasonable copyright royalty rates by Copyright Royalty Tribunal, see section 801 of this title.

Effective date of final determinations concerning proceedings involving distribution of royalty fees under this section, see section 809 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

Institution and conclusion of proceedings concerning adjustment of royalty rates as provided in this section, see section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501, 801, 804, 809 of this title.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2565.)

CROSS REFERENCES

Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 501 of this title.

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) The exclusive rights provided by section 106 shall, with respect to the works specified by subsection (b) and the activities specified by subsection (d), be subject to the conditions and limitations prescribed by this section.

(b) Not later than thirty days after the Copyright Royalty Tribunal has been constituted in accordance with section 802, the Chairman of the Tribunal shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Tribunal in an effort to reach reasonable and expeditious results. Notwithstanding any provision of the antitrust laws, any owners of copyright in works specified by this subsection and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may, within one hundred and twenty days after publication of the notice specified in this subsection, submit to the Copyright Royalty Tribunal proposed licenses covering such activities with respect to such works. The Copyright Royalty Tribunal shall proceed on the basis of the proposals submitted to it as well as any other relevant information. The Copyright Royalty Tribunal shall permit any interested party to submit information relevant to such proceedings.

(2) License agreements, voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Tribunal: *Provided*, That copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe.

(3) Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Tribunal shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copyright owners and public broadcasting entities have submitted proposals to the Tribunal. In establishing such rates and terms the Copyright Royalty Tribunal may consider the rates for comparable circumstances under voluntary license agreements negotiated as provided in clause (2) of this subsection. The Copyright Royalty Tribunal shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept by public broadcasting entities.

(4) With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) The initial procedure specified in subsection (b) shall be repeated and concluded between June 30 and December 31, 1982, and at five-year intervals thereafter, in accordance with regulations that the Copyright Royalty Tribunal shall prescribe.

(d) Subject to the transitional provisions of subsection (b)(4), and to the terms of any vol-

untary license agreements that have been negotiated as provided by subsection (b)(2), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the Copyright Royalty Tribunal under subsection (b)(3), engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) performance or display of a work by or in the course of a transmission made by a noncommercial educational broadcast station referred to in subsection (g); and

(2) production of a transmission program, reproduction of copies or phonorecords of such a transmission program, and distribution of such copies or phonorecords, where such production, reproduction, or distribution is made by a nonprofit institution or organization solely for the purpose of transmissions specified in clause (1); and

(3) the making of reproductions by a governmental body or a nonprofit institution of a transmission program simultaneously with its transmission as specified in clause (1), and the performance or display of the contents of such program under the conditions specified by clause (1) of section 110, but only if the reproductions are used for performances or displays for a period of no more than seven days from the date of the transmission specified in clause (1), and are destroyed before or at the end of such period. No person supplying, in accordance with clause (2), a reproduction of a transmission program to governmental bodies or nonprofit institutions under this clause shall have any liability as a result of failure of such body or institution to destroy such reproduction: *Provided*, That it shall have notified such body or institution of the requirement for such destruction pursuant to this clause: *And provided further*, That if such body or institution itself fails to destroy such reproduction it shall be deemed to have infringed.

(e) Except as expressly provided in this subsection, this section shall have no applicability to works other than those specified in subsection (b).

(1) Owners of copyright in nondramatic literary works and public broadcasting entities may, during the course of voluntary negotiations, agree among themselves, respectively, as to the terms and rates of royalty payments without liability under the antitrust laws. Any such terms and rates of royalty payments shall be effective upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe.

(2) On January 3, 1980, the Register of Copyrights, after consulting with authors and other owners of copyright in nondramatic literary works and their representatives, and with public broadcasting entities and their representatives, shall submit to the Congress a report setting forth the extent to which voluntary licensing arrangements have been reached with respect to the use of nondramatic literary works by such broadcast stations. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(f) Nothing in this section shall be construed to permit, beyond the limits of fair use as provided by section 107, the unauthorized dramatization of a nondramatic musical work, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works, or the unauthorized use of any portion of an audiovisual work.

(g) As used in this section, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in clause (2) of subsection (d).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2565.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsecs. (b) and (e)(1), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

The effective date of this title, referred to in subsec. (b)(4), is Jan. 1, 1978.

EFFECTIVE DATE

Section effective Oct. 19, 1976, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of this title.

CROSS REFERENCES

Determinations as to reasonable terms and rats of royalty payments by Copyright Royalty Tribunal, see section 801 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

Institution and conclusion of proceedings concerning the determination of reasonable terms and rates of royalty payments, see section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 114, 117, 501, 504, 801, 804 of this title.

CHAPTER 2—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) Initial ownership

Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) Works made for hire

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instru-

ment signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to collective works

Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of ownership

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) Involuntary transfer

When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2568.)

CROSS REFERENCES

Copyright not capital asset, see section 1221 of Title 26, Internal Revenue Code.

Ownership by Government, see section 105 of this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2568.)

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for termination

In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of termination

Upon the effective date of termination, all rights under this title that were covered by the terminated grants revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grants that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2569.)

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if—

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2570.)

§ 205. Recordation of transfers and other documents

(a) Conditions for recordation

Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) Certificate of recordation

The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) Recordation as constructive notice

Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) Recordation as prerequisite to infringement suit

No person claiming by virtue of a transfer to be the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) Priority between conflicting transfers

As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) Priority between conflicting transfer of ownership and nonexclusive license

A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2571.)

REGISTRATION OF CLAIMS TO COPYRIGHTS AND RECORDATION OF ASSIGNMENTS OF COPYRIGHTS AND OTHER INSTRUMENTS UNDER PREDECESSOR PROVISIONS

Recordation of assignments of copyrights or other instruments received in the Copyright Office before Jan. 1, 1978, to be made in accordance with this title as it existed on Dec. 31, 1977, see section 109 of Pub. L. 94-553, set out as a note under section 410 of this title.

CROSS REFERENCES

Copyright infringement action as subject to requirements of this section, see section 501 of this title.

Fee for recordation of a transfer of copyright ownership, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 708 of this title.

CHAPTER 3—DURATION OF COPYRIGHT

Sec.
301. Preemption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1978.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1978; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106.

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047.

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2572.)

§ 302. Duration of copyright: Works created on or after January 1, 1978

(a) In general

Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) Joint works

In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) Anonymous works, pseudonymous works, and works made for hire

In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term

of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records relating to death of authors

Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) Presumption as to author's death

After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefits of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2572.)

CROSS REFERENCES

Fee for recordation of statement revealing identity of author of amonymous or pseudonymous work or for statement relating to death of author, see section 708 of this title.

Notice of copyright, error in date as affecting duration, see section 406 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 305, 406, 708 of this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and, if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2573.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 301, 305 of this title.

§ 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in their first term on January 1, 1978

Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured: *Provided,* That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in their renewal term or registered for renewal before January 1, 1978

The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and Decem-

ber 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) Termination of transfers and licenses covering extended renewal term

In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to

terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2573.)

EFFECTIVE DATE

Subsec. (b) of this section effective Oct. 19, 1976, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of this title.

AD INTERIM COPYRIGHTS SUBSISTING OR CAPABLE OF BEING SECURED UNDER PREDECESSOR PROVISIONS

Section 107 of Pub. L. 94-553 provided that: "In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act [this section]."

CROSS REFERENCES

Alternative to separate renewal registrations for group works by single author, see section 408 of this title.

Fee for registration of claim to renewal of subsisting copyright in first term, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 305, 408, 708 of this title.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2576.)

CHAPTER 4—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for copyright registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) General requirement

Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of notice

The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations, or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles; and

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of notice

The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2576.)

COMPLIANCE WITH PREDECESSOR NOTICE PROVISIONS; COPIES DISTRIBUTED AFTER DEC. 31, 1977

Section 108 of Pub. L. 94-553 provided that: "The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act [sections

401 through 403 of this title] apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403 to 405 of this title.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) General requirement

Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of notice

The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol ℗ (the letter P in a circle); and

(2) the year of first publication of the sound recording; and

(3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

(c) Position of notice

The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403 to 405 of this title.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by sections 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404, 405 of this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2577.)

§ 405. Notice of copyright: Omission of notice

(a) Effect of omission on copyright

The omission of the copyright notice prescribed by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if—

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of omission on innocent infringers

Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if such person proves that he or she was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition or permitting the continuation of the infringing undertaking, that the infringer pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of notice

Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2578.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 408 of this title.

§ 406. Notice of copyright: Error in name or date

(a) Error in name

Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if such person proves that he or she was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from transfers or licenses purportedly made under the copyright by the person named in the notice.

(b) Error in date

When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of name or date

Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2578.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 404 of this title.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), and subject to the provisions of subsection (e), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

Neither the deposit requirements of this subsection nor the acquisition provisions of subsection (e) are conditions of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories. Such regulations shall provide either for complete exemption from the deposit requirements of this section, or for alternative forms of deposit aimed at providing a satisfactory archival record of a work without imposing practical or financial hardships on the depositor, where the individual author is the owner of copyright in a pictorial, graphic, or sculptural work and (i) less than five copies of the work have been published, or (ii) the work has been published in a limited edition consisting of numbered copies, the monetary value of which would make the mandatory deposit of two copies of the best edition of the work burdensome, unfair, or unreasonable.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable—

(1) to a fine of not more than $250 for each work; and

(2) to pay into a specially designated fund in the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost of the Library of Congress of acquiring them; and

(3) to pay a fine of $2,500, in addition to any fine or liability imposed under clauses (1) and (2), if such person willfully or repeatedly fails or refuses to comply with such a demand.

(e) With respect to transmission programs that have been fixed and transmitted to the public in the United States but have not been

published, the Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials, establish regulations governing the acquisition, through deposit or otherwise, of copies or phonorecords of such programs for the collections of the Library of Congress.

(1) The Librarian of Congress shall be permitted, under the standards and conditions set forth in such regulations, to make a fixation of a transmission program directly from a transmission to the public, and to reproduce one copy or phonorecord from such fixation for archival purposes.

(2) Such regulations shall also provide standards and procedures by which the Register of Copyrights may make written demand, upon the owner of the right of transmission in the United States, for the deposit of a copy or phonorecord of a specific transmission program. Such deposit may, at the option of the owner of the right of transmission in the United States, be accomplished by gift, by loan for purposes of reproduction, or by sale at a price not to exceed the cost of reproducing and supplying the copy or phonorecord. The regulations established under this clause shall provide reasonable periods of not less than three months for compliance with a demand, and shall allow for extensions of such periods and adjustments in the scope of the demand or the methods for fulfilling it, as reasonably warranted by the circumstances. Willful failure or refusal to comply with the conditions prescribed by such regulations shall subject the owner of the right of transmission in the United States to liability for an amount, not to exceed the cost of reproducing and supplying the copy or phonorecord in question, to be paid into a specially designated fund in the Library of Congress.

(3) Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).

(4) No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2579.)

DEPOSITS AND REGISTRATIONS MADE AFTER DECEMBER 31, 1977, IN RESPONSE TO DEMAND UNDER PREDECESSOR DEMAND AND PENALTY PROVISIONS

Section 110 of Pub. L. 94-553 provided that: "The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act."

CROSS REFERENCES

Fee for issuance of a receipt for a deposit, see section 708 of this title.

Jurisdiction of district courts of action or proceeding for recovery or enforcement of fines, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Placement of copies and phonorecords acquired in accordance with this section in American Television and Radio Archives, see section 170 of Title 2, The Congress.

Records of deposits to be kept in Copyright Office, see section 705 of this title.

Retention and deposition of articles deposited in Copyright Office, see section 704 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 408, 704, 708 of this title; title 2 section 170.

§ 408. Copyright registration in general

(a) Registration permissive

At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for copyright registration

Except as provided by subsection (c), the material deposited for registration shall include—

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published outside the United States, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (e) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

(c) Administrative classification and optional deposit

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a

single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to the general authority provided under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions—

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) the renewal application and fee are received not more than twenty-eight or less than twenty-seven years after the thirty-first day of December of the calendar year in which all of the works were first published; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) Corrections and amplifications

The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published edition of previously registered work

Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2580.)

CROSS REFERENCES

Fee for registration of copyright claim or supplementary registration, see section 708 of this title.

Forms and procedures, reproduction for use of the blind and physically handicapped, see section 710 of this title.

Issuance of importation statement, material not manufactured in United States or Canada, see section 601 of this title.

Placement of copies and phonorecords acquired in accordance with this section in American Television and Radio Archives, see section 170 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 405, 601, 704, 708, 710 of this title; title 2 section 170.

§ 409. Application for copyright registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include—

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2582.)

CROSS REFERENCES

Penalty for false representation of material fact, see section 506 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 408, 506 of this title.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2582.)

REGISTRATION OF CLAIMS TO COPYRIGHTS AND RECORDATION OF ASSIGNMENTS OF COPYRIGHTS AND OTHER INSTRUMENTS UNDER PREDECESSOR PROVISIONS

Section 109 of Pub. L. 94-553 provided that: "The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977."

FEDERAL RULES OF EVIDENCE

Self-authentication, domestic public documents under seal, see rule 902, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Deduction in refund in case involving refusal to register a claim, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 708 of this title.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2583.)

CROSS REFERENCES

Infringement actions, see section 501 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 412, 501 of this title.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2583.)

CHAPTER 5—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damage and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.
509. Seizure and forfeiture.
510. Remedies for alteration of programing by cable systems.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205(d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2584.)

Causes of Action Arising Under Predecessor Provisions

Section 112 of Pub. L. 94-553 provided that: "All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose."

Cross References

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.

Exclusive jurisdiction of district courts of actions arising under copyright laws, see section 1338 of Title 28, Judiciary and Judicial Procedure.

Importation of copies or phonorecords without authority, see section 602 of this title.

Registration as prerequisite to infringement action and to certain remedies for infringement, see sections 411, 412 of this title.

United States as infringer, action in Court of Claims, see section 1498 of Title 28, Judiciary and Judicial Procedure.

Venue in copyright actions, see section 1400 of Title 28.

Works consisting of sounds, images, or both, the first fixation of which is made sumultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

Section Referred to in Other Sections

This section is referred to in sections 111, 115, 116, 411, 510, 602 of this title.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in such clerk's office.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2584.)

Federal Rules of Civil Procedure

Injunctions, generally, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Security—
Upon granting injunction pending appeal, see rule 62.
Upon granting preliminary injunction, see rule 65.

Territorial extent of effective service of process, see rule 4.

FEDERAL FORMS OF CIVIL PROCEDURE

Form of complaint for injunction and damages, see form 17, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.
Power of court to punish for contempt for disobedience to decrees or orders, see section 401 of Title 18, Crimes and Criminal Procedure.
Works consisting of sounds, image, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 510 of this title.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2585.)

CROSS REFERENCES

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.
Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 510 of this title.

§ 504. Remedies for infringement: Damages and profits

(a) In general

Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual damages and profits

The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory damages

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public broadcasting entity (as defined in subsection (g) of section 118) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2585.)

CROSS REFERENCES

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.

Registration as prerequisite for award of statutory damages, see section 412 of this title.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 405, 411, 412, 510 of this title; title 28 section 1498.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

CROSS REFERENCES

Acts of infringement—
- Making and distributing phonorecords, see section 115 of this title.
- Public performances, see section 116 of this title.
- Secondary transmission of primary transmission, see section 111 of this title.

Costs against United States generally, see section 2412 of Title 28, Judiciary and Judicial Procedure, and rule 54 of Federal Rules of Civil Procedure, Title 28, Appendix.

Registration as prerequisite for award of attorney fees, see section 412 of this title.

Taxation of costs, see section 1920 of Title 28, Judiciary and Judicial Procedure.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 412, 510 of this title.

§ 506. Criminal offenses

(a) Criminal infringement

Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) Forfeiture and destruction

When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords.

(c) Fraudulent copyright notice

Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

(d) Fraudulent removal of copyright notice

Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) False representation

Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

CROSS REFERENCES

Acts of infringement subject to this section—
- Making and distributing phonorecords, see section 115 of this title.
- Public performances, see section 116 of this title.
- Secondary transmission of primary transmission, see section 111 of this title.

Costs or prosecution taxable in non-capital proceedings, see section 1918 of Title 28, Judiciary and Judicial Procedure.

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 509 of this title.

§ 507. Limitations on actions

(a) Criminal proceedings

No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil actions

No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

CROSS REFERENCES

Limitation on prosecution, trial, or punishment of non-capital offenses generally, see section 3282 of Title 18, Crimes and Criminal Procedure.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

§ 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise;[1] and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

[1] So in original. The semicolon probably should be a comma.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587.)

CROSS REFERENCES

Acts of infringement subject to this section—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.

Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels, see section 2318 of Title 18, Crimes and Criminal Procedure.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411 of this title; title 18 section 2318.

§ 510. Remedies for alteration of programing by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsections (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) When an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587.)

CROSS REFERENCES

Secondary transmission of primary transmission as subject to this section, see section 111 of this title.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 411 of this title.

CHAPTER 6—MANUFACTURING REQUIREMENTS AND IMPORTATION

Sec.
601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to July 1, 1982, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought—

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2588.)

CROSS REFERENCES

Application for copyright registration, names of persons or organizations who performed the processes specified in this section, see section 409 of this title.

Fee for issuance of import statement, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 602, 708 of this title.

§ 602. Infringing importation of copies or phonorecords.

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2589.)

CROSS REFERENCES

Importer of copies or phonorecords into the United States as infringer, see section 501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 603 of this title.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2590.)

REFERENCES IN TEXT

The customs revenue laws, referred to in subsec. (c), are classified generally to Title 19, Customs Duties.

CHAPTER 7—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.

Sec.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.
710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under the Librarian's general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1978, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

(d) Except as provided by section 706(b) and the regulations issued thereunder, all actions taken by the Register of Copyrights under this title are subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, Chapter 5, Subchapter II and Chapter 7).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

REFERENCES IN TEXT

The Administrative Procedure Act of June 11, 1946, referred to in subsec. (d), was repealed and the provisions thereof were reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 278.

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

Pub. L. 93-573, title II, §§ 201 to 208, Dec. 31, 1974, 88 Stat. 1873 to 1875, as amended by Pub. L. 94-314, June 21, 1976, 90 Stat. 692; Pub. L. 95-146, Oct. 28, 1977, 91 Stat. 1226, provided that:

"ESTABLISHMENT AND PURPOSE OF COMMISSION

"Sec. 201. (a) There is hereby created in the Library of Congress a National Commission on New Technological Uses of Copyrighted Works (hereafter called the Commission).

"(b) The purpose of the Commission is to study and compile data on:

"(1) the reproduction and use of copyrighted works of authorship—

"(A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and

"(B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and

"(2) the creation of new works by the application or intervention of such automatic systems or machine reproduction.

"(c) The Commission shall make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

"MEMBERSHIP OF THE COMMISSION

"Sec. 202. (a) The Commission shall be composed of thirteen voting members, appointed as follows:

"(1) Four members, to be appointed by the President, selected from authors and other copyright owners;

"(2) Four members, to be appointed by the President, selected from users of copyright works;

"(3) Four nongovernmental members to be appointed by the President, selected from the public generally, with at least one member selected from among experts in consumer protection affairs;

"(4) The Librarian of Congress.

"(b) The President shall appoint a Chairman, and a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office, from among the four members selected from the public generally, as provided by clause (3) of subsection (a). The Register of Copyrights shall serve ex officio as a nonvoting member of the Commission.

"(c) Seven voting members of the Commission shall constitute a quorum.

"(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

"COMPENSATION OF MEMBERS OF COMMISSION

"Sec. 203. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties, plus reimbursement for travel, subsistence, and other necessary expenses in connection with such duties.

"(b) Any members of the Commission who are officers or employees of the Federal Government shall serve on the Commission without compensation, but such members shall be reimbursed for travel, subsistence, and other necessary expenses in connection with the performance of their duties.

"STAFF

"Sec. 204. (a) To assist in its studies, the Commission may appoint a staff which shall be an administrative part of the Library of Congress. The staff shall be headed by an Executive Director, who shall be responsible to the Commission for the Administration of the duties entrusted to the staff.

"(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code but at rates not to exceed $100 per day.

"EXPENSES OF THE COMMISSION

"Sec. 205. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title until and including the day on which the Commission terminates.

"REPORTS

"Sec. 206. (a) Within one year after the first meeting of the Commission it shall submit to the President and the Congress a preliminary report on its activities.

"(b) On or before July 31, 1978, the Commission shall submit to the President and the Congress a final report on its study and investigation which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

"(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it may determine, including but not limited to consultant's reports, transcripts of testimony, seminar reports, and other Commission findings.

"POWERS OF THE COMMISSION

"Sec. 207. (a) The Commission or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documentary material.

"(b) With the consent of the Commission, any of its members may hold any meetings, seminars, or conferences considered appropriate to provide a forum for discussion of the problems with which it is dealing.

"TERMINATION

"Sec. 208. On the sixtieth day after the date of the submission of its final report, the Commission shall terminate and all offices and employment under it shall expire."

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official record, see rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF EVIDENCE

Hearsay exception, public records and reports, see rule 803, Title 28, Appendix, Judiciary and Judicial Procedure.

Self-authentication, domestic public documents under seal, see rule 902.

CROSS REFERENCES

Authenticated copies of records and papers of department or agency admissible, see section 1733 of Title 28, Judiciary and Judicial Procedure.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled, under regulations that the Register of Copyrights shall prescribe, to select any deposits for its collections or for transfer to the National Archives of the United States or to a Federal records center, as defined in section 2901 of title 44.

(c) The Register of Copyrights is authorized, for specific or general categories of works, to make a facsimile reproduction of all or any part of the material deposited under section 408, and to make such reproduction a part of the Copyright Office records of the registration, before transferring such material to the Library of Congress as provided by subsection (b), or before destroying or otherwise disposing of such material as provided by subsection (d).

(d) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be knowingly or intentionally destroyed or otherwise disposed of during its term of copyright unless a facsimile reproduction of the entire deposit has been made a part of the Copyright Office records as provided by subsection (c).

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(11) if the request is granted.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other

actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2592.)

FEDERAL RULES OF EVIDENCE

Hearsay exception, public records and reports, see rule 803, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Certificate of registration under seal as prima facie evidence of facts stated therein, see section 410 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 708 of this title.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701, 708 of this title.

§ 707. Copyright Office forms and publications

(a) Catalog of copyright entries

The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) Other publications

The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) Distribution of publications

All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2592.)

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

(c) All fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriation for necessary ex-

penses of the Copyright Office. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section; however, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register may deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2593, and amended Pub. L. 95-94, title IV, § 406(b), Aug. 5, 1977, 91 Stat. 682.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-94 substituted provisions relating to crediting of all fees received, to the appropriation for necessary expenses of the Copyright Office, for provisions relating to crediting of all fees received in the manner directed by the Secretary of the Treasury.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 406(b) of Pub. L. 95-94 provided in part that the amendment by Pub. L. 95-94 is effective Jan. 1, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 205, 407, 408, 704 to 706 of this title.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

§ 710. Reproduction for use of the blind and physically handicapped: Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

CHAPTER 8—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal: Establishment and purpose.
802. Membership of the Tribunal.
803. Procedures of the Tribunal.
804. Institution and conclusion of proceedings.
805. Staff of the Tribunal.
806. Administrative support of the Tribunal.
807. Deduction of costs of proceedings.
808. Reports.
809. Effective date of final determinations.
810. Judicial review.

EFFECTIVE DATE

Chapter effective Oct. 19, 1976, see section 102 of Pub. L. 94-533, set out as an Effective Date note preceding section 101 of this Appendix.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 111, 116 of this title.

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created an independent Copyright Royalty Tribunal in the legislative branch.

(b) Subject to the provisions of this chapter, the purposes of the Tribunal shall be—

(1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. The rates applicable under sections 115 and 116 shall be calculated to achieve the following objectives:

(A) To maximize the availability of creative works to the public;

(B) To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;

(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication;

(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) The rates established by section 111(d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to main-

tain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided,* That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: *And provided further,* That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Commission may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Tribunal shall consider, among other factors, the economic impact on copyright owners and users: *Provided,* That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(2)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802, and shall designate an order of seniority among the initially-appointed commissioners for purposes of section 802(b).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsecs. (b)(2)(A) and (c), is Oct. 19, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 802, 804, 810 of this title.

§ 802. Membership of the Tribunal

(a) The Tribunal shall be composed of five commissioners appointed by the President with the advice and consent of the Senate for a term of seven years each; of the first five members appointed, three shall be designated to serve for seven years from the date of the notice specified in section 801(c), and two shall be designated to serve for five years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribe [1] for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(b) Upon convening the commissioners shall elect a chairman from among the commissioners appointed for a full seven-year term. Such chairman shall serve for a term of one year. Thereafter, the most senior commissioner who has not previously served as chairman shall serve as chairman for a period of one year, except that, if all commissioners have served a full term as chairman, the most senior commissioner who has served the least number of terms as chairman shall be designated as chairman.

(c) Any vacancy in the Tribunal shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2596.)

[1] So in original. Probably should be "prescribed".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 118, 801 of this title.

§ 803. Procedures of the Tribunal

(a) The Tribunal shall adopt regulations, not inconsistent with law, governing its procedure and methods of operation. Except as otherwise provided in this chapter, the Tribunal shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

(b) Every final determination of the Tribunal shall be published in the Federal Register. It shall state in detail the criteria that the Tribunal determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2596.)

REFERENCES IN TEXT

The Administrative Procedure Act of June 11, 1946, referred to in subsec. (a), was repealed and the provisions thereof were reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 808, 809 of this title.

§ 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2)(A) and (D)—

(1) on January 1, 1980, the Chairman of the Tribunal shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. The Tribunal shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Tribunal determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

(A) In proceedings under section 801(b)(2)(A) and (D), such petition may be filed during 1985 and in each subsequent fifth calendar year.

(B) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.

(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Tribunal, may, within twelve months, file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. In this event the Tribunal shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Tribunal pursuant to this subsection may be reconsidered in 1980, 1985, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2)(B) or (C), as the case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Tribunal shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3), concerning the distribution of royalty fees in certain circumstances under sections 111 or 116, the Chairman of the Tribunal shall, upon determination by the Tribunal that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(e) All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Tribunal shall render its final decision in any such proceeding within one year from the date of such publication.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2597.)

§ 805. Staff of the Tribunal

(a) The Tribunal is authorized to appoint and fix the compensation of such employees as may be necessary to carry out the provisions of this chapter, and to prescribe their functions and duties.

(b) The Tribunal may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

COMPUTATION AND DISBURSEMENT BY LIBRARY OF CONGRESS OF BASIC PAY OF TRIBUNAL PERSONNEL

Pub. L. 95-94, title II, § 208, Aug. 5, 1977, 91 Stat. 678, provided that: "The Library of Congress is authorized to compute and disburse basic pay of all personnel of the Copyright Royalty Tribunal pursuant to the provisions of section 5504 of title 5 of the United States Code."

§ 806. Administrative support of the Tribunal

(a) The Library of Congress shall provide the Tribunal with necessary administrative services, including those related to budgeting, accounting, financial reporting, travel, personnel, and procurement. The Tribunal shall pay the Library for such services, either in advance or by reimbursement from the funds of the Tribunal, at amounts to be agreed upon between the Librarian and the Tribunal.

(b) The Library of Congress is authorized to disburse funds for the Tribunal, under regulations prescribed jointly by the Librarian of Congress and the Tribunal and approved by the Comptroller General. Such regulations shall establish requirements and procedures under which every voucher certified for payment by the Library of Congress under this chapter shall be supported with a certification by a duly authorized officer or employee of the Tribunal, and shall prescribe the responsibilities and accountability of said officers and employees of the Tribunal with respect to such certifications.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 807. Deduction of costs of proceedings

Before any funds are distributed pursuant to a final decision in a proceeding involving distribution of royalty fees, the Tribunal shall assess the reasonable costs of such proceeding.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 808. Reports

In addition to its publication of the reports of all final determinations as provided in section 803(b), the Tribunal shall make an annual report to the President and the Congress concerning the Tribunal's work during the preceding fiscal year, including a detailed fiscal statement of account.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 809. Effective date of final determinations

Any final determination by the Tribunal under this chapter shall become effective thirty days following its publication in the Federal Register as provided in section 803(b), unless prior to that time an appeal has been filed pursuant to section 810, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Tribunal in the proceeding in question. Where the proceeding involves the distribution of royalty fees under sections [1] 111 or 116, the Tribunal shall, upon the expiration of such thirty-day period, distribute any royalty fees not subject to an appeal filed pursuant to section 810.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 810. Judicial review

Any final decision of the Tribunal in a proceeding under section 801(b) may be appealed to the United States Court of Appeals, within thirty days after its publication in the Federal Register by an aggrieved party. The judicial review of the decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Tribunal. No court shall have jurisdiction to review a final decision of the Tribunal except as provided in this section.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

CROSS REFERENCES

Agreement to accept determination of Copyright Royalty Tribunal as final in regard to claim for compulsory license fees, see section 116 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 116, 809 of this title.

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[1] So in original. Probably should be "section".

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

This title was enacted by act June 25, 1943, ch. 645, 62 Stat. 683

TITLE REFERRED TO IN OTHER TITLES

This title is referred to in title 48 section 1694.

PART I—CRIMES

CHAPTER 1—GENERAL PROVISIONS

§ 8. Obligation or other security of the United States defined

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2024; title 49 section 787.

CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

§ 42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

EXOTIC ORGANISMS

For provisions relating to restrictions on the introduction of exotic organisms into natural ecosystems of the United States, see Ex. Ord. No. 11987, May 24, 1977, 42 F.R. 26949, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

§ 202. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 12 sections 209, 1457; title 26 section 4946; title 40 App. section 108; title 42 section 3188.

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202, 205, 206, 207 of this title; title 5 section 3374; title 12 section 1457; title 30 section 663; title 38 section 3402; title 40 App. section 108; title 42 sections 246, 1314, 3188; title 50 App. section 463.

§ 205. Activities of officers and employees in claims against and other matters affecting the Government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202, 206, 207 of this title; title 5 section 3374; title 12 section 1457; title 25 section 450i; title 30 section 663; title 38 section 3402; title 40 App. section 108; title 41 section 120; title 42 sections 246, 1314, 3188; title 50 App. section 463.

§ 207. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 section 3374; title 12 section 1457; title 25 section 450i; title 29 section 308e; title 30 section 663; title 38 section 3402; title 40 App. section 108; title 42 sections 246, 3188, 7216, 7218; title 50 App. section 463.

§ 208. Acts affecting a personal financial interest

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. In the case of class A and B directors of Federal Reserve

banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment.

(As amended Pub. L. 95-188, title II, § 205, Nov. 16, 1977, 91 Stat. 1388.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-188, § 205(a), extended the conflicts of interest prohibition to a Federal Reserve bank director, officer, or employee.

Subsec. (b). Pub. L. 95-188, § 205(b), added sentence "In the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 section 3374; title 12 section 1457; title 40 App. section 108; title 42 sections 246, 3188, 7218.

§ 209. Salary of Government officials and employees payable only by United States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 2 section 162; title 5 sections 3102, 3343, 3374, 4111; title 7 section 2220; title 8 section 1353c; title 12 section 1457; title 30 section 663; title 40 App. section 108; title 42 sections 246, 1314, 1975d, 3188; title 45 section 362.

CHAPTER 15—CLAIMS AND SERVICES IN MATTERS AFFECTING GOVERNMENT

§ 291. Purchase of claims for fees by court officials

Whoever, being a judge, clerk, or deputy clerk of any court of the United States or a Territory or Possession thereof, or a United States district attorney, assistant attorney, marshal, deputy marshal, commissioner, or other person holding any office or employment, or position of trust or profit under the United States, directly or indirectly purchases at less than the full face value thereof, any claim against the United States for the fee, mileage, or expenses of any witness, juror, deputy marshal, or any other officer of such court, shall be fined not more than $1,000.

(June 25, 1948, ch. 645, 62 Stat. 699.)

CHANGE OF NAME

United States commissioners, referred to in text, were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

CHAPTER 19—CONSPIRACY

§ 371. Conspiracy to commit offense or to defraud United States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 12 section 1457; title 26 section 6531; title 42 section 3793; title 50 App. section 18.

CHAPTER 23—CONTRACTS

§ 443. War contracts

Whoever willfully secretes, mutilates, obliterates, or destroys—

(a) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of $25,000 or more; or

(b) any records of a war contractor or purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any government agency is $5,000 or more,

before the lapse of (1) five years after such disposition of termination inventory by such war contractor or government agency, or (2) five years after the final settlement of such war contract, or (3) five years after 12 o'clock noon of December 31, 1946, whichever applicable period is longer, shall, if a corporation, be fined not more than $50,000, and, if a natural person, be fined not more than $10,000 or imprisoned not more than five years, or both.

The Administrator of General Services, by regulation, may authorize the destruction of such records upon such terms and conditions as he deems appropriate, including the requirement for the making and retaining of photographs or microphotographs, which shall have the same force and effect as the originals thereof.

The definitions of terms in section 103 of Title 41 shall apply to similar terms used in this section.

(June 25, 1948, ch. 645, 62 Stat. 704; Oct. 31, 1951, ch. 655, § 20(a), 65 Stat. 717.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

CHAPTER 31—EMBEZZLEMENT AND THEFT

§ 646. Court officers depositing registry moneys

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of the Treasury Department.

§ 664. Theft or embezzlement from employee benefit plan

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or to the use of another, any of the moneys, funds, securities, premiums, credits, property, or other assets of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be fined not more than $10,000, or imprisoned not more than five years, or both.

As used in this section, the term "any employee welfare benefit plan or employee pension benefit plan" means any employee benefit plan

subject to any provision of title I of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 87-420, § 17(a), Mar. 20, 1962, 76 Stat. 41, and amended Pub. L. 93-406, title I, § 111(a)(2)(A), Sept. 2, 1974, 88 Stat. 851.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

CHAPTER 33—EMBLEMS, INSIGNIA AND NAMES

§ 715. "The Golden Eagle Insignia"

As used in this section, "The Golden Eagle Insignia" means the words "The Golden Eagle" and the representation of an American Golden Eagle (colored gold) and a family group (colored midnight blue) enclosed within a circle (colored white with a midnight blue border) framed by a rounded triangle (colored gold with a midnight blue border) which was originated by the Department of the Interior as the official symbol for Federal recreation fee areas.

Whoever, except as authorized under rules and regulations issued by the Secretary of the Interior, knowingly manufactures, reproduces, or uses "The Golden Eagle Insignia", or any facsimile thereof, in such a manner as is likely to cause confusion, or to cause mistake, or to deceive, shall be fined not more than $250 or imprisoned not more than six months, or both.

The use of any such emblem, sign, insignia, or words which was lawful on the date of enactment of this Act shall not be a violation of this section.

A violation of this section may be enjoined at the suit of the Attorney General, upon complaint by the Secretary of the Interior.

(Added Pub. L. 92-347, § 3(b), July 11, 1972, 86 Stat. 461.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

CHAPTER 35—ESCAPE AND RESCUE

§ 751. Prisoners in custody of institution or officer

(a) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or commissioner, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined not more than $5,000 or imprisoned not more than five years, or both; or if the custody or confinement is for extradition or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or commissioner, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined not more than $1,000 or imprisoned not more than one year, or both. Nothing herein contained shall be construed to affect the discretionary authority vested in the Attorney General pursuant to section 5032 of this title.

(June 25, 1948, ch. 645, 62 Stat. 734; Dec. 30, 1963, Pub. L. 88-251, § 1, 77 Stat. 834; Sept. 10, 1965, Pub. L. 89-176, § 3, 79 Stat. 675.)

CHANGE OF NAME

United States commissioners, referred to in text were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

§ 755. Officer permitting escape

Whoever, having in his custody any prisoner by virtue of process issued under the laws of the United States by any court, judge, or commissioner, voluntarily suffers such prisoner to escape, shall be fined not more than $2,000 or imprisoned not more than two years, or both; or if he negligently suffers such person to escape, he shall be fined not more than $500 or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 735.)

CHANGE OF NAME

United States commissioners, referred to in text were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

CHAPTER 37—ESPIONAGE AND CENSORSHIP

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2516 of this title; title 5 section 8312; title 42 section 402.

§ 792. Harboring or concealing persons

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.

§ 793. Gathering, transmitting or losing defense information

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 792, 1717 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.

§ 794. Gathering or delivering defense information to aid foreign government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 792, 798, 1717 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.

§ 795. Photographing and sketching defense installations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 796, 797 of this title; title 50 App. section 34.

§ 796. Use of aircraft for photographing defense installations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 50 App. section 34.

§ 797. Publication and sale of photographs of defense installations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 50 App. section 34.

§ 798. Disclosure of classified information

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14 of this title; title 5 section 8312; title 38 section 3505.

§ 798. Temporary extension of section 794

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

CHAPTER 39—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

§ 832. Transportation of explosives, radioactive materials, etiological agents, and other dangerous articles

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 834. Regulations by Interstate Commerce Commission

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 835. Administration

CROSS REFERENCES

Regulations of Commandant of Coast Guard adopting regulations of Secretary of Transportation relating to water carrier, see section 170 of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 832, 834 of this title; title 46 section 170; title 49 section 1655.

CHANGE OF NAME

United States commissioners, referred to in text, were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

CHAPTER 44—FIREARMS

§ 923. Licensing

[*See main edition for text of* (a)]

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be $10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

[*See main edition for text of* (c)]

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

[*See main edition for text of* (A)]

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (h) of this chapter;

[*See main edition for text of* (C)-(E), (2), *and* (e)-(j)]

CODIFICATION

Subsecs. (b) and (d)(1)(B) are set out in this supplement to correct typographical error in the main edition.

§ 924. Penalties

[*See main edition for text of* (a)]

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

[*See main edition for text of* (c) *and* (d)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct typographical error in the main edition.

CHAPTER 45—FOREIGN RELATIONS

§ 953. Private correspondence with foreign governments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 50 App. section 34.

CHAPTER 47—FRAUD AND FALSE STATEMENTS

§ 1001. Statements or entries generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 12 section 1457; title 20 section 581; title 22 section 1623; title 29 section 916; title 31 section 1052; title 40 section 276c; title 42 sections 1874, 2000b-3, 2000c-6, 3426, 3792; title 43 section 1212.

§ 1013. Farm loan bonds and credit bank debentures

ABOLITION OF JOINT-STOCK LAND BANKS

Joint-stock land banks, established pursuant to act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, which enacted sections 811 to 824 of Title 12, Banks and Banking, were abolished pursuant to the repeal of act July 17, 1916, by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

§ 1014. Loan and credit applications generally; renewals and discounts; crop insurance

ABOLITION OF JOINT-STOCK LAND BANKS

Joint-stock land banks, established pursuant to act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, which enacted sections 811 to 824 of Title 12, Banks and Banking, were abolished pursuant to the repeal of act July 17, 1916, by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

§ 1019. Certificates by consular officers

Whoever, being a consul, or vice consul, or other person employed in the consular service of the United States, knowingly certifies falsely to any invoice, or other paper, to which his certificate is authorized or required by law, shall be fined not more than $10,000 or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

§ 1026. Compromise, adjustment, or cancellation of farm indebtedness

Whoever knowingly makes any false statement for the purpose of influencing in any way the action of the Secretary of Agriculture, or of any person acting under his authority, in connection with any compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 755.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

CHAPTER 51—HOMICIDE

§ 1114. Protection of officers and employees of the United States

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the secret service or of the Drug Enforcement Administration, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Depart-

ment of Health, Education, and Welfare, the Consumer Product Safety Commission, or of the Department of Labor or of the Department of the Interior or of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions, while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title.

(As amended Aug. 3, 1977, Pub. L. 95-87, title VII, § 704, 91 Stat. 520.)

CODIFICATION

Section 704 of Pub. L. 95-87, in addition to amending this section, enacted section 1294 of Title 30, Mineral Lands and Mining.

AMENDMENTS

1977—Pub. L. 95-87 inserted "or of the Department of the Interior" following "or of the Department of Labor".

CHAPTER 53—INDIANS

§ 1151. Indian country defined

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian country", as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(June 25, 1948, ch. 645, 62 Stat. 757; May 24, 1949, ch. 139, § 25, 63 Stat. 94.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

§ 1162. State jurisdiction over offenses committed by or against Indians in the Indian country

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 sections 711e, 1323.

CHAPTER 73—OBSTRUCTION OF JUSTICE

§ 1501. Assault on process server

Whoever knowingly and willfully obstructs, resists, or opposes any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ or process of any court of the United States, or United States commissioner; or

Whoever assaults, beats, or wounds any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process—

Shall, except as otherwise provided by law, be fined not more than $300 or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 769.)

CHANGE OF NAME

United States commissioners, referred to in text were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

§ 1503. Influencing or injuring officer, juror or witness generally

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness, in any court of the United States or before any United States commissioner or other committing magistrate, or any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States commissioner or other committing magistrate, in the discharge of his duty, or injures any party or witness in his person or property on account of his attending or having attended such court or examination before such officer, commissioner, or other committing magistrate, or on account of his testifying or having testified to any matter pending therein, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, commissioner, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 769.)

CHANGE OF NAME

United States commissioners, referred to in text, were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

§ 1507. Picketing or parading

Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

(Added Sept. 23, 1950, ch. 1024, title I, § 31(a), 64 Stat. 1018.)

CODIFICATION

Section is set out to in this supplement correct typographical error in the main edition.

CHAPTER 79—PERJURY

§ 1621. Perjury generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 8 section 1357; title 30 section 49e; title 50 App. sections 19, 2255.

§ 1623. False declarations before grand jury or court

(a) Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

[*See main edition for text of* (b)]

(c) An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

(1) each declaration was material to the point in question, and

(2) each declaration was made within the period of the statute of limitations for the offense charged under this section.

In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true.

[*See main edition for text of* (d) *and* (e)]

CODIFICATION

Subsecs. (a) and (c) of this section are set out in this supplement to correct typographical error in the main edition.

CHAPTER 91—PUBLIC LANDS

Sec.
1862. Trespass on Bull Run National Forest.[1]

[§ 1862. Repealed. Pub. L. 95-200, § 3(c), Nov. 23, 1977, 91 Stat. 1428]

Section, act June 25, 1948, ch. 645, 62 Stat. 789, imposed a fine of not more than $500 or imprisonment of not more than six months as the penalty for knowingly trespassing upon the reserve known as the Bull Run National Forest in the Cascade Mountains. See note set out under section 482b of Title 16, Conservation, for the remainder of Pub. L. 95-200, including savings provisions therein, which in addition to repealing this section created the Bull Run Watershed Management Unit, Mount Hood National Forest.

CHAPTER 93—PUBLIC OFFICERS AND EMPLOYEES

§ 1905. Disclosure of confidential information generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 3374; title 15 sections 330b, 771, 773, 796, 1193, 1401, 1418, 1914, 1944, 1990d, 2055, 2217, 2613; title 26 section 7213; title 29 section 664; title 33 sections 1318, 1320, 1322, 1369, 1513; title 42 sections 263g, 263i, 300j-4, 4912, 5916, 6274, 6927, 7135, 7542, 7607, 7621; title 46 section 1463; title 49 sections 1681, 1905.

§ 1907. Disclosure of information by farm credit examiner

ABOLITION OF JOINT-STOCK LAND BANKS

Joint-stock land banks, established pursuant to act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, which enacted sections 811 to 824 of Title 12, Banks and Banking, were abolished pursuant to the repeal of act July 17, 1916, by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

CHAPTER 105—SABOTAGE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2516 of this title; title 5 section 8312; title 38 section 3505; title 42 section 402.

§ 2152. Fortifications, harbor defenses, or defensive sea areas

Whoever willfully trespasses upon, injures, or destroys any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States; or

Whoever willfully interferes with the operation or use of any such submarine mine, torpedo, fortification, or harbor-defense system; or

Whoever knowingly, willfully, or wantonly violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purposes of national defense, may from time to time establish by executive order—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 799.)

[1] Section 1862 was repealed by Pub. L. 95-200, § 3(c) Nov. 23, 1977, 91 Stat. 1428, without a concurrent repeal of item 1862 in the analysis.

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

§ 2157. Temporary extension of sections 2153 and 2154

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

CHAPTER 111—SHIPPING

§ 2279. Boarding vessels before arrival

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 46 section 163.

CHAPTER 113—STOLEN PROPERTY

§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

(c) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).

(Added, Pub. L. 87-773, § 1, Oct. 9, 1962, 76 Stat. 775, and amended Pub. L. 93-573, title I, § 103, Dec. 31, 1974, 88 Stat. 1873; Pub. L. 94-553, title I, § 111, Oct. 19, 1976, 90 Stat. 2600.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-553 designated existing provisions as subsec. (a) and in subsec. (a) as so designated substituted "$10,000" for "$25,000" and "$25,000" for "$50,000".

Subsecs. (b) and (c). Pub. L. 94-553 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as a note preceding section 101 of Title 17, Copyrights.

CHAPTER 115—TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2516 of this title; title 5 section 8312; title 22 sections 1641k, 1642h; title 42 section 402; title 50 App. section 2017g.

§ 2381. Treason

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 38 section 3505; title 50 App. section 34.

§ 2382. Misprision of treason

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 38 section 3505; title 50 App. section 34.

§ 2383. Rebellion or insurrection

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 8 section 1481; title 38 section 3505; title 50 App. section 34.

§ 2384. Seditious conspiracy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 8 sections 1251, 1481; title 38 section 3505; title 50 App. section 34.

§ 2385. Advocating overthrow of Government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 8 section 1481; title 38 section 3505; title 50 App. section 34.

§ 2386. Registration of certain organizations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 612; title 50 App. section 34.

§ 2387. Activities affecting armed forces generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 5 section 8312; title 38 section 3505; title 50 App. section 34.

§ 2388. Activities affecting armed forces during war

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 1717, 2391 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.

§ 2391. Temporary extension of section 2388

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

PART II—CRIMINAL PROCEDURE

CHAPTER 201—GENERAL PROVISIONS

§ 3006A. Adequate representation of defendants

[*See main edition for text of* (a) *to* (c)]

(d) Payment for representation.—

[*See main edition for text of* (1) *to* (5)]

(6) Proceedings before appellate courts.—If a person for whom counsel is appointed under this section appeals to an appellate court or petitions for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.

[*See main edition for text of* (e) *to* (g)]

(h) Defender organization.—

[*See main edition for text of* (1)]

(2) Types of defender organizations.—

(A) Federal Public Defender Organization.—A Federal Public Defender Organization shall consist of one or more full-time salaried attorneys. An organization for a district or part of a district or two adjacent districts or parts of districts shall be supervised by a Federal Public Defender appointed by the judicial council of the circuit, without regard to the provisions of title 5 governing appointments in the competitive service, after considering recommendations from the district court or courts to be served. Nothing contained herein shall be deemed to authorize more than one Federal Public Defender within a single judicial district. The Federal Public Defender shall be appointed for a term of four years, unless sooner removed by the judicial council of the circuit for incompetency, misconduct in office, or neglect of duty. The compensation of the Federal Public Defender shall be fixed by the judicial council of the circuit at a rate not to exceed the compensation received by the United States attorney for the district where representation is furnished or, if two districts or parts of districts are involved, the compensation of the higher paid United States attorney of the districts. The Federal Public Defender may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, full-time attorneys in such number as may be approved by the Judicial Council of the Circuit and other personnel in such number as may be approved by the Director of the Administrative Office of the United States Courts. Compensation paid to such attorneys and other personnel of the organization shall be fixed by the Federal Public Defender at a rate not to exceed that paid to attorneys and other personnel of similar qualifications and experience in the Office of the United States attorney in the district where representation is furnished or, if two districts or parts of districts are involved, the higher compensation paid to persons of similar qualifications and experience in the districts. Neither the Federal Public Defender nor any attorney so appointed by him may engage in the private practice of law. Each organization shall submit to the Director of the Administrative Office of the United States Courts, at the time and in the form prescribed by him, reports of its activities and financial position and its proposed budget. The Director of the Administrative Office shall submit, similarly as under title 28, United States Code, section 605, and subject to the conditions of that section, a budget for each organization for each fiscal year and shall out of the appropriations therefor make payments to and on behalf of each organization. Payments under this subparagraph to an organization shall be in lieu of payments under subsection (d) or (e).

(B) Community Defender Organization.—A Community Defender Organization shall be a nonprofit defense counsel service established and administered by any group authorized by the plan to provide representation. The organization shall be eligible to furnish attorneys and receive payments under this section if its bylaws are set forth in the plan of the district or districts in which it will serve. Each organization shall submit to the Judicial Conference of the United States an annual report setting forth its activities and financial position and the anticipated caseload and expenses for the coming year. Upon application an organization may, to the extent approved by the Judicial Conference of the United States.

(i) receive an initial grant for expenses necessary to establish the organization; and

(ii) in lieu of payments under subsection (d) or (e), receive periodic sustaining grants to provide representation and other expenses pursuant to this section.

[*See main edition for text of* (i) *to* (l)]

Codification

Subsecs. (d)(6) and (h)(2) are set out in this supplement to correct typographical errors in the main edition.

Certification by Attorney General to Administrative Office of United States Courts of Payment of Obligated Expenses

Section 5(c) of Pub. L. 95-144, Oct. 28, 1977, 91 Stat. 1222, provided that: "The Attorney General shall certify to the Administrative Office of the United States Courts those expenses which it is obligated to pay on behalf of an indigent offender under section 3006A of title 18, United States Code, and similar statutes."

Section Referred to in Other Sections

This section is referred to in sections 3162, 4109, 4214 of this title; title 28 section 753; title 42 section 3795; title 48 section 1694c.

CHAPTER 203—ARREST AND COMMITMENT

§ 3041. Power of courts and magistrates

Section Referred to in Other Sections

This section is referred to in sections 3042, 3152, 3156 of this title; title 16 sections 916g, 1031; title 25 section 5557.

§ 3045. Internal revenue violations

Warrants of arrest for violations of internal revenue laws may be issued by United States

magistrates upon the complaint of a United States attorney, assistant United States attorney, collector, or deputy collector of internal revenue or revenue agent, or private citizen; but no such warrant of arrest shall be issued upon the complaint of a private citizen unless first approved in writing by a United States attorney.

(June 25, 1948, ch. 645, 62 Stat. 816; Oct. 17, 1968, Pub. L. 95-578, title III, § 301(a)(2), 82 Stat. 1115.)

CODIFICATION

Section is set out in this supplement to correct typographical error in the main edition.

§ 3056. Secret Service powers

ABOLITION OF JOINT-STOCK LAND BANKS

Joint-stock land banks, established pursuant to act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, which enacted sections 811 to 824 of Title 12, Banks and Banking, were abolished pursuant to the repeal of act July 17, 1916, by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

SECRET SERVICE PROTECTION OF FORMER FEDERAL OFFICIALS

Pub. L. 95-1, Jan. 19, 1977, 91 Stat. 3, provided: "That the United States Secret Service, in addition to other duties now provided by law, is authorized to furnish protection to a person who (a) as a Federal Government official has been receiving protection by the United States Secret Service for a period immediately preceding January 20, 1977, or (b) as a member of such official's immediate family has been receiving protection by either the United States Secret Service or other security personnel of the official's department immediately preceding January 20, 1977, if the President determines that such person may thereafter be in significant danger: *Provided, however,* That protection of any such person shall continue only for such period as the President determines and shall not continue beyond July 20, 1977, unless otherwise permitted by law."

CHAPTER 209—EXTRADITION

§ 3181.

TREATIES OF EXTRADITION

The United States has entered into the following bilateral treaties of extradition:

Country	Date signed	Entered into force	Citation
Albania	Mar. 1, 1933	Nov. 14, 1935	49 Stat. 3313.
Argentina	Sept. 26, 1896	July 2, 1900	31 Stat. 1883.
	Jan. 21, 1972	Sept. 15, 1972	23 UST 3501.
Australia	Dec. 22, 1931	Aug. 30, 1935	47 Stat. 2122.
	May 14, 1974	May 8, 1976	TIAS 8234.
Austria	Jan. 31, 1930	Sept. 11, 1930	46 Stat. 2779.
	May 19, 1934	Sept. 5, 1934	49 Stat. 2710.
Bahamas	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Barbados	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Belgium	Oct. 26, 1901	July 14, 1902	32 Stat. 1984.
	June 20, 1935	Nov. 7, 1935	49 Stat. 3276.
	Nov. 14, 1963	Dec. 25, 1964	15 UST 2252.
Bolivia	Apr. 21, 1900	Jan. 22, 1902	32 Stat. 1857.
Brazil	Jan. 13, 1961	Dec. 17, 1964	15 UST 2093.
	June 18, 1962	Dec. 17, 1964	15 UST 2112.
Bulgaria	Mar. 19, 1924	June 24, 1924	43 Stat. 1886.
	June 8, 1934	Aug. 15, 1935	49 Stat. 3250.
Burma	Dec. 22, 1931	Nov. 1, 1941	47 Stat. 2122.
Canada	Aug. 9, 1842		8 Stat. 572.
	July 12, 1889		26 Stat. 1508.
	Dec. 13, 1900		32 Stat. 1864.
	Apr. 12, 1905		34 Stat. 2903.
	May 18, 1908	June 30, 1908	35 Stat. 2035.
	May 15, 1922	Nov. 3, 1922	42 Stat. 2224.
	Jan. 8, 1925	July 27, 1925	44 Stat. 2100.
	Oct. 26, 1951	July 11, 1952	3 UST 2826.
	Dec. 3, 1971	Mar. 22, 1976	TIAS 8237.
	June 28, 1974	Mar. 22, 1976	TIAS 8237.
	July 9, 1974	Mar. 22, 1976	TIAS 8237.
Chile	Apr. 17, 1900	June 26, 1902	32 Stat. 1850.
Colombia	May 7, 1888	Jan. 11, 1891	26 Stat. 1534.
	Sept. 9, 1940	July 6, 1943	57 Stat. 824.
Congo (Brazzaville)	Jan. 6, 1909	July 27, 1911	37 Stat. 1526.
	Jan. 15, 1929	May 19, 1929	46 Stat. 2276.
	Apr. 23, 1936	Sept. 24, 1936	50 Stat. 1117.
Costa Rica	Nov. 10, 1922	Apr. 27, 1923	43 Stat. 1621.
Cuba	Apr. 6, 1904	Mar. 2, 1905	33 Stat. 2265.
	Dec. 6, 1904	Mar. 2, 1905	33 Stat. 2273.
	Jan. 14, 1926	June 18, 1926	44 Stat. 2392.
Cyprus	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Czechoslovakia	July 2, 1925	Mar. 29, 1926	44 Stat. 2367.
	Apr. 29, 1935	Aug. 28, 1935	49 Stat. 3253.
Denmark	June 22, 1972	July 31, 1974	TIAS 7864.
Dominican Republic.	June 19, 1909	Aug. 2, 1910	36 Stat. 2468.
Ecuador	June 28, 1872	Nov. 12, 1873	18 Stat. 199.
	Sept. 22, 1939	May 29, 1941	55 Stat. 1196.
Egypt	Aug. 11, 1874	Apr. 22, 1875	19 Stat. 572.
El Salvador	Apr. 18, 1911	July 10, 1911	37 Stat. 1516.
Estonia	Nov. 8, 1923	Nov. 15, 1924	43 Stat. 1849.
	Oct. 10, 1934	May 7, 1935	49 Stat. 3190.
Fiji	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Aug. 17, 1973	TIAS 7707.
Finland	Aug. 1, 1924	Mar. 23, 1925	44 Stat. 2002.
	May 17, 1934	Aug. 10, 1934	49 Stat. 2690.
France	Jan. 6, 1909	July 27, 1911	37 Stat. 1526.
	Jan. 15, 1929	May 19, 1929	46 Stat. 2276.
	Apr. 23, 1936	Sept. 24, 1936	50 Stat. 1117.
	Feb. 12, 1970	Apr. 3, 1971	22 UST 407.
Gambia	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Germany, Federal Republic of.	July 12, 1930	Apr. 26, 1931	47 Stat. 1862.
Ghana	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Granada	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Greece	May 6, 1931	Nov. 1, 1932	47 Stat. 2185.
	Sept. 2, 1937	Sept. 2, 1937	51 Stat. 357.
Guatemala	Feb. 27, 1903	Aug. 15, 1903	33 Stat. 2147.
	Feb. 20, 1940	Mar. 13, 1941	55 Stat. 1097.
Guyana	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Haiti	Aug. 9, 1904	June 28, 1905	34 Stat. 2858.
Honduras	Jan. 15, 1909	July 10, 1912	37 Stat. 1616.
	Feb. 21, 1927	June 5, 1928	45 Stat. 2489.
Hungary	July 3, 1856	Dec. 13, 1856	11 Stat. 691.
Iceland	Jan. 6, 1902		32 Stat. 1906.
	Nov. 6, 1905	Feb. 19, 1906	34 Stat. 2887.
India	Dec. 22, 1931	Mar. 9, 1942	47 Stat. 2122.
Iraq	June 7, 1934	Apr. 23, 1936	49 Stat. 3380.
Ireland	July 12, 1889		26 Stat. 1508.
	Dec. 13, 1900		32 Stat. 1864.
	Apr. 12, 1905		34 Stat. 2903.
Israel	Dec. 10, 1962	Dec. 5, 1963	14 UST 1707.
		Apr. 11, 1967	18 UST 382.
Italy	Mar. 23, 1868	Sept. 17, 1868	15 Stat. 629.
	Jan. 21, 1869	May 7, 1869	16 Stat. 767.
	June 11, 1884	Apr. 24, 1885	24 Stat. 1001.
		Apr. 17, 1946	61 Stat. 3687.
	Jan. 18, 1973	Mar. 11, 1975	TIAS 8052.
Jamaica	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Japan	Apr. 29, 1886	Nov. 26, 1886	24 Stat. 1015.
	May 17, 1906	Oct. 5, 1906	34 Stat. 2951.
Kenya	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Aug. 19, 1965	TIAS 5916.
Latvia	Oct. 16, 1923	Mar. 1, 1924	43 Stat. 1738.
	Oct. 10, 1934	Mar. 29, 1935	49 Stat. 3131.
Lesotho	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Liberia	Nov. 1, 1937	Nov. 21, 1939	54 Stat. 1733.
Liechtenstein	May 20, 1936	June 28, 1937	50 Stat. 1337.
Lithuania	Apr. 9, 1924	Aug. 23, 1924	43 Stat. 1835.
	May 17, 1934	Jan. 8, 1935	49 Stat. 3077.
Luxembourg	Oct. 29, 1883	Aug. 13, 1884	23 Stat. 808.
	Apr. 24, 1935	Mar. 3, 1936	49 Stat. 3355.
Malawi	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Apr. 4, 1967	18 UST 1322.
Malaysia	Dec. 22, 1931		47 Stat. 2122.

Country	Date signed	Entered into force	Citation
Malta	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Mauritius	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Mexico	Feb. 22, 1899	Apr. 22, 1899	31 Stat. 1818.
	June 25, 1902	Apr. 13, 1903	TS 421.
	Dec. 23, 1925	July 11, 1926	44 Stat. 2409.
	Aug. 16, 1939	Apr. 14, 1941	55 Stat. 1133.
Monaco	Feb. 15, 1939	Mar. 28, 1940	54 Stat. 1780.
Nauru	Dec. 22, 1931		47 Stat. 2122.
Netherlands	June 2, 1887	July 11, 1889	26 Stat. 1481.
	Jan. 18, 1904	Aug. 28, 1904	33 Stat. 2257.
New Zealand	July 12, 1889		26 Stat. 1508.
	Dec. 13, 1900		32 Stat. 1864.
	Apr. 12, 1905		34 Stat. 2903.
	Jan. 12, 1970	Dec. 8, 1970	22 UST 1.
Nicaragua	Mar. 1, 1905	July 14, 1907	35 Stat. 1869.
Nigeria	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Norway	June 7, 1893	Dec. 8, 1893	28 Stat. 1187.
	Dec. 10, 1904	Apr. 4, 1905	34 Stat. 2865.
	Feb. 1, 1938	Aug. 6, 1938	53 Stat. 1561.
Pakistan	Dec. 22, 1931	Mar. 9, 1942	47 Stat. 2122.
Panama	May 25, 1904	May 8, 1905	34 Stat. 2851.
Papua New Guinea.	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Paraguay	Mar. 26, 1913	Jan. 17, 1914	38 Stat. 1754.
	May 24, 1973	May 7, 1974	TIAS 7838.
Peru	Nov. 28, 1899	Feb. 22, 1901	31 Stat. 1921.
Poland	Nov. 22, 1927	July 6, 1929	46 Stat. 2282.
	Apr. 5, 1935	June 5, 1936	49 Stat. 3394.
Portugal	May 7, 1908	Nov. 14, 1908	35 Stat. 2071.
Romania	July 23, 1924	Apr. 7, 1925	44 Stat. 2020.
	Nov. 10, 1936	July 27, 1937	50 Stat. 1349.
San Marino	Jan. 10, 1906	July 8, 1908	35 Stat. 1971.
	Oct. 10, 1934	June 28, 1935	49 Stat. 3198.
Sierra Leone	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Singapore	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		June 10, 1969	20 UST 2764.
South Africa	Dec. 18, 1947	Apr. 30, 1951	2 UST 884.
Spain	June 15, 1904	Apr. 6, 1908	35 Stat. 1947.
	May 29, 1970	June 16, 1971	22 UST 737.
Sri Lanka	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Surinam	June 2, 1887	July 11, 1889	26 Stat. 1481.
	Jan. 18, 1904	Aug. 28, 1904	33 Stat. 2257.
Swaziland	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		July 28, 1970	21 UST 1930.
Sweden	Oct. 24, 1961	Dec. 3, 1963	14 UST 1845.
Switzerland	May 14, 1900	Mar. 29, 1901	31 Stat. 1928.
	Jan. 10, 1935	May 16, 1935	49 Stat. 3192.
	Jan. 31, 1940	Apr. 8, 1941	55 Stat. 1140.
Tanzania	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Dec. 6, 1965	TIAS 5946.
Thailand	Dec. 30, 1922	Mar. 24, 1924	43 Stat. 1749.
Tonga	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Trinidad and Tobago.	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Turkey	Aug. 6, 1923	Aug. 18, 1934	49 Stat. 2692.
United Arab Republic.	Aug. 11, 1874	Apr. 22, 1875	19 Stat. 572.
United Kingdom.	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
	June 8, 1972	Jan. 1, 1977	TIAS 8468.
Uruguay	Mar. 19, 1905	June 4, 1908	35 Stat. 2028.
Venezuela	Jan. 11, 21, 1922.	Apr. 14, 1923	43 Stat. 1698.
Yugoslavia	Oct. 25, 1901	June 12, 1902	32 Stat. 1890.
Zambia	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.

§ 3186. Secretary of State to surrender fugitive

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4114 of this title.

§ 3188. Time of commitment pending extradition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4114 of this title.

§ 3189. Place and character of hearing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4114 of this title.

§ 3190. Evidence on hearing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4114 of this title.

§ 3191. Witnesses for indigent fugitives

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4114 of this title.

§ 3195. Payment of fees and costs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 4114 of this title.

CHAPTER 219—TRIAL BY UNITED STATES MAGISTRATES

§ 3401. Minor offenses; application of probation laws

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1011; title 16 sections 460d, 460*l*–6a, 551, 670j, 1338; title 28 section 636; title 43 section 1733.

CHAPTER 223—WITNESSES AND EVIDENCE

§ 3504. Litigation concerning sources of evidence

(a) In any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States—

[*See main edition for text of* (*1*)]

(2) disclosure of information for a determination if evidence is inadmissible because it is the primary product of an unlawful act occurring prior to June 19, 1968, or because it was obtained by the exploitation of an unlawful act occurring prior to June 19, 1968, shall not be required unless such information may be relevant to a pending claim of such inadmissibility; and

[*See main edition for text of* (*3*) *and* (*b*)]

CODIFICATION

Subsec. (a)(2) of this section is set out in this supplement to correct typographical error in the main edition.

CHAPTER 229—FINES, PENALTIES AND FORFEITURES

§ 3617. Remission or mitigation of forfeitures under liquor laws; possession pending trial

[*See main edition for text of* (*a*)]

(b) Conditions precedent to remission or mitigation

In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until he proves (1) that he has an interest in such vehicle or aircraft, as owner or otherwise, which he acquired in good

faith, (2) that he had at no time any knowledge or reason to believe that it was being or would be used in the violation of laws of the United States or of any State relating to liquor, and (3) if it appears that the interest asserted by the claimant arises out of or is in any way subject to any contract or agreement under which any person having a record or reputation for violating laws of the United States or of any State relating to liquor has a right with respect to such vehicle or aircraft, that, before such claimant acquired his interest, or such other person acquired his right under such contract or agreement, whichever occurred later, the claimant, his officer or agent, was informed in answer to his inquiry, at the headquarters of the sheriff, chief of police, principal Federal internal-revenue officer engaged in the enforcement of the liquor laws, or other principal local or Federal law-enforcement officer of the locality in which such other person acquired his right under such contract or agreement, of the locality in which such other person then resided, and of each locality in which the claimant has made any other inquiry as to the character or financial standing of such other person, that such other person had no such record or reputation.

[*See main edition for text of* (c) *and* (d)]

CODIFICATION

Subsec. (b) of this section is set out in this supplement to correct typographical error in the main edition.

CHAPTER 231—PROBATION

§ 3653. Report of probation officer and arrest of probationer

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4104 of this title

CHAPTER 237—RULES OF CRIMINAL PROCEDURE

§ 3771. Procedure to and including verdict

APPROVAL AND EFFECTIVE DATE OF AMENDMENTS PROPOSED APRIL 26, 1976

Section 1 of Pub. L. 95-78, July 30, 1977, 91 Stat. 319, provided: "That notwithstanding the first section of the Act entitled 'An Act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court' (Public Law 94-349, approved July 8, 1976) [90 Stat. 822] the amendments to rules 6(e), 23, 24, 40.1, and 41(c)(2) of the Rules of Criminal Procedure for the United States district courts [set out in the Appendix to this title] which are embraced by the order entered by the United States Supreme Court on April 26, 1976, shall take effect only as provided in this Act [see section 4 of Pub. L. 95-78, set out below]."

EFFECTIVE DATE OF PUB. L. 95-78

Pub. L. 95-78, § 4, July 30, 1977, 91 Stat. 322, provided that:

"(a) The first section of this Act [set out as a note above] shall take effect on the date of the enactment of this Act [July 30, 1977].

"(b) Sections 2 and 3 of this Act [which amended section 1446 of Title 28, Judiciary and Judicial Procedure, approved proposed amendment of rule 23 of the Federal Rules of Criminal Procedure, modified and approved proposed amendment of rules 6 and 41 of the Federal Rules of Criminal Procedure, and disapproved the proposed amendment of rule 24 of the Federal Rules of Criminal Procedure and the proposed addition of rule 40.1 of the Federal Rules of Criminal Procedure] shall take effect October 1, 1977."

PART III—PRISONS AND PRISONERS

Chap. Sec.
306. Transfer to or from Foreign Countries[1] 4100

CHAPTER 305—COMMITMENT AND TRANSFER

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 section 955.

§ 4082. Commitment to Attorney General; residential treatment centers; extension of limits of confinement; work furlough

NATIONAL TRAINING SCHOOL FOR BOYS

The National Training School for Boys was governed and managed by a Board of Trustees until July 1, 1939, at which time 1939 Reorg. Plan No. 2 (4 F.R. 2731, 53 Stat. 1431) abolished the Board of Trustees and transferred the School and its functions (including the functions of the Board of Trustees) to the Department of Justice, to be administered by the Director of the Bureau of Prisons, under the direction and supervision of the Attorney General. The School was so operated until May 15, 1968, when it was closed pursuant to order of the Attorney General.

CHAPTER 306—TRANSFER TO OR FROM FOREIGN COUNTRIES

Sec.
4100. Scope and limitation of chapter.
4101. Definitions.
4102. Authority of the Attorney General.
4103. Applicability of United States laws.
4104. Transfer of offenders on probation.
4105. Transfer of offenders serving sentence of imprisonment.
4106. Transfer of offenders on parole; parole of offenders transferred.
4107. Verification of consent of offender to transfer from the United States.
4108. Verification of consent of offender to transfer to the United States.
4109. Right to counsel, appointment of counsel.
4110. Transfer of juveniles.
4111. Prosecution barred by foreign conviction.
4112. Loss of rights, disqualification.
4113. Status of alien offender transferred to a foreign country.
4114. Return of transferred offenders.
4115. Execution of sentences imposing an obligation to make restitution or reparations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 section 955.

§ 4100. Scope and limitation of chapter

(a) The provisions of this chapter relating to the transfer of offenders shall be applicable only when a treaty providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such a treaty. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the United

[1] Chapter added without adding chapter heading to analysis.

States pursuant to a treaty shall be subject to being fully executed in the United States even though the treaty under which the offender was transferred is no longer in force.

(b) An offender may be transferred from the United States pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the United States may be transferred to the United States. An offender may be transferred to or from the United States only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in this chapter. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under eighteen years of age the transfer shall not be accomplished unless consent to the transfer be given by a parent or guardian or by an appropriate court of the sentencing country.

(c) An offender shall not be transferred to or from the United States if a proceeding by way of appeal or of collateral attack upon the conviction or sentence be pending.

(d) The United States upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1212.)

AUTHORIZATION OF APPROPRIATIONS

Section 5(a) of Pub. L. 95-144 provided that: "There is authorized to be appropriated such funds as may be required to carry out the purposes of this Act [which enacted this chapter and sections 955 of Title 10, Armed Forces, and 2256 of Title 28, Judiciary and Judicial Procedure, amended section 636 of Title 28, and enacted provisions set out as notes under sections 3006A, 4100, and 4102 of this title]".

§ 4101. Definitions

As used in this chapter the term—

(a) "double criminality" means that at the time of transfer of an offender the offense for which he has been sentenced is still an offense in the transferring country and is also an offense in the receiving country. With regard to a country which has a federal form of government, an act shall be deemed to be an offense in that country if it is an offense under the federal laws or the laws of any state or province thereof;

(b) "imprisonment" means a penalty imposed by a court under which the individual is confined to an institution;

(c) "juvenile" means—

(1) a person who is under eighteen years of age; or

(2) for the purpose of proceedings and disposition under chapter 403 of this title because of an act of juvenile delinquency, a person who is under twenty-one years of age;

(d) "juvenile delinquency" means—

(1) a violation of the laws of the United States or a State thereof or of a foreign country committed by a juvenile which would have been a crime if committed by an adult; or

(2) noncriminal acts committed by a juvenile for which supervision or treatment by juvenile authorities of the United States, a State thereof, or of the foreign country concerned is authorized;

(e) "offender" means a person who has been convicted of an offense or who has been adjudged to have committed an act of juvenile delinquency;

(f) "parole" means any form of release of an offender from imprisonment to the community by a releasing authority prior to the expiration of his sentence, subject to conditions imposed by the releasing authority and to its supervision;

(g) "probation" means any form of a sentence to a penalty of imprisonment the execution of which is suspended and the offender is permitted to remain at liberty under supervision and subject to conditions for the breach of which the suspended penalty of imprisonment may be ordered executed;

(h) "sentence" means not only the penalty imposed but also the judgment of conviction in a criminal case or a judgment of acquittal in the same proceeding, or the adjudication of delinquency in a juvenile delinquency proceeding or dismissal of allegations of delinquency in the same proceedings;

(i) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(j) "transfer" means a transfer of an individual for the purpose of the execution in one country of a sentence imposed by the courts of another country; and

(k) "treaty" means a treaty under which an offender sentenced in the courts of one country may be transferred to the country of which he is a citizen or national for the purpose of serving the sentence.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1213.)

§ 4102. Authority of the Attorney General

The Attorney General is authorized—

(1) to act on behalf of the United States as the authority referred to in a treaty;

(2) to receive custody of offenders under a sentence of imprisonment, on parole, or on probation who are citizens or nationals of the United States transferred from foreign countries and as appropriate confine them in penal or correctional institutions, or assign them to the parole or probation authorities for supervision;

(3) to transfer offenders under a sentence of imprisonment, on parole, or on probation to the foreign countries of which they are citizens or nationals;

(4) to make regulations for the proper implementation of such treaties in accordance

with this chapter and to make regulations to implement this chapter;

(5) to render to foreign countries and to receive from them the certifications and reports required to be made under such treaties;

(6) to make arrangements by agreement with the States for the transfer of offenders in their custody who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals and for the confinement, where appropriate, in State institutions of offenders transferred to the United States;

(7) to make agreements and establish regulations for the transportation through the territory of the United States of offenders convicted in a foreign country who are being transported to a third country for the execution of their sentences, the expenses of which shall be paid by the country requesting the transportation;

(8) to make agreements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of juveniles who are transferred pursuant to treaty, the expenses of which shall be paid by the country of which the juvenile is a citizen or national;

(9) in concert with the Secretary of Health, Education, and Welfare, to make arrangements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of individuals who are accused of an offense but who have been determined to be mentally ill; the expenses of which shall be paid by the country of which such person is a citizen or national;

(10) to designate agents to receive, on behalf of the United States, the delivery by a foreign government of any citizen or national of the United States being transferred to the United States for the purpose of serving a sentence imposed by the courts of the foreign country, and to convey him to the place designated by the Attorney General. Such agent shall have all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with the offender, so far as such power is requisite for the offender's transfer and safekeeping; within the territory of a foreign country such agent shall have such powers as the authorities of the foreign country may accord him;

(11) to delegate the authority conferred by this chapter to officers of the Department of Justice.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1214.)

CERTIFICATION BY ATTORNEY GENERAL TO SECRETARY OF STATE FOR REIMBURSEMENT OF EXPENSES INCURRED UNDER TRANSFER TREATY

Section 5(b) of Pub. L. 95-144 provided that: "The Attorney General shall certify to the Secretary of State the expenses of the United States related to the return of an offender to the foreign country of which the offender is a citizen or national for which the United States is entitled to seek reimbursement from that country under a treaty providing for transfer and reimbursement."

§ 4103. Applicability of United States laws

All laws of the United States, as appropriate, pertaining to prisoners, probationers, parolees, and juvenile offenders shall be applicable to offenders transferred to the United States, unless a treaty or this chapter provides otherwise.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1215.)

§ 4104. Transfer of offenders on probation

(a) Prior to consenting to the transfer to the United States of an offender who is on probation, the Attorney General shall determine that the appropriate United States district court is willing to undertake the supervision of the offender.

(b) Upon the receipt of an offender on probation from the authorities of a foreign country, the Attorney General shall cause the offender to be brought before the United States district court which is to exercise supervision over the offender.

(c) The court shall place the offender under supervision of the probation officer of the court. The offender shall be supervised by a probation officer, under such conditions as are deemed appropriate by the court as though probation had been imposed by the United States district court.

(d) The probation may be revoked in accordance with section 3653 of this title and rule 32(f) of the Federal Rules of Criminal Procedure. A violation of the conditions of probation shall constitute grounds for revocation. If probation is revoked the suspended sentence imposed by the sentencing court shall be executed.

(e) The provisions of sections 4105 and 4106 of this title shall be applicable following a revocation of probation.

(f) Prior to consenting to the transfer from the United States of an offender who is on probation, the Attorney General shall obtain the assent of the court exercising jurisdiction over the probationer.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1215.)

§ 4105. Transfer of offenders serving sentence of imprisonment

(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or

any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits for good time, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 4161 of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 4164 of this title.

(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 4161 of this title.

(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.

(5) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4104 of this title.

§ 4106. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205 (d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.

(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1216.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4104 of this title.

§ 4107. Verification of consent of offender to transfer from the United States

(a) Prior to the transfer of an offender from the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a United States magistrate or a judge as defined in section 451 of title 28, United States Code.

(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(1) only the appropriate courts in the United States may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

(2) the sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

(3) if a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of that country, he may be returned to the United States for the purpose of completing the sentence if the United States requests his return; and

(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1216.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4109 of this title; title 28 section 636.

§ 4108. Verification of consent of offender to transfer to the United States

(a) Prior to the transfer of an offender to the United States, the fact that the offender con-

sents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified in the country in which the sentence was imposed by a United States magistrate, or by a citizen specifically designated by a judge of the United States as defined in section 451 of title 28, United States Code. The designation of a citizen who is an employee or officer of a department or agency of the United States shall be with the approval of the head of that department or agency.

(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(1) only the country in which he was convicted and sentenced can modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in that country;

(2) the sentence shall be carried out according to the laws of the United States and that those laws are subject to change;

(3) if a United States court should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of the United States, he may be returned to the country which imposed the sentence for the purpose of completing the sentence if that country requests his return; and

(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1217.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 636.

§ 4109. Right to counsel, appointment of counsel

In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel—

(1) counsel for proceedings conducted under section 4107 shall be appointed in accordance with the Criminal Justice Act (18 U.S.C. 3006A). Such appointment shall be considered an appointment in a misdemeanor case for purposes of compensation under the Act;

(2) counsel for proceedings conducted under section 4108 shall be appointed by the verifying officer pursuant to such regulations as may be prescribed by the Director of the Administrative Office of the United States Courts. The Secretary of State shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under the Criminal Justice Act (18 U.S.C. 3006(a)[1] for representation in a misdemeanor case. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the chief judge of the United States court of appeals for the appropriate circuit. Counsel from other agencies in any branch of the Government may be appointed: *Provided*, That in such cases the Secretary of State shall pay counsel directly, or reimburse the employing agency for travel and transportation expenses. Notwithstanding section 3648 of the revised statutes as amended (31 U.S.C. 529), the Secretary may make advance payments of travel and transportation expenses to counsel appointed under this subsection.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

REFERENCES IN TEXT

The Criminal Justice Act, referred to in text, probably means Pub. L. 88-455, Aug. 20, 1964, 78 Stat. 552, as amended, known as the Criminal Justice Act of 1964, which enacted section 3006A of this title, and provisions set out as notes under section 3006A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3006A of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 636.

§ 4110. Transfer of juveniles

An offender transferred to the United States because of an act which would have been an act of juvenile delinquency had it been committed in the United States or any State thereof shall be subject to the provisions of chapter 403 of this title except as otherwise provided in the relevant treaty or in an agreement pursuant to such treaty between the Attorney General and the authority of the foreign country.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

§ 4111. Prosecution barred by foreign conviction

An offender transferred to the United States shall not be detained, prosecuted, tried, or sentenced by the United States, or any State thereof for any offense the prosecution of

[1] So in original. Probably should read "(18 U.S.C. 3006A)".

which would have been barred if the sentence upon which the transfer was based had been by a court of the jurisdiction seeking to prosecute the transferred offender, or if prosecution would have been barred by the laws of the jurisdiction seeking to prosecute the transferred offender if the sentence on which the transfer was based had been issued by a court of the United States or by a court of another State.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

§ 4112. Loss of rights, disqualification

An offender transferred to the United States to serve a sentence imposed by a foreign court shall not incur any loss of civil, political, or civic rights nor incur any disqualification other than those which under the laws of the United States or of the State in which the issue arises would result from the fact of the conviction in the foreign country.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

§ 4113. Status of alien offender transferred to a foreign country

(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 1252(b) or section 1254(e) of title 8, United States Code, and who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

(b) An alien who is the subject of an order of deportation from the United States pursuant to section 1252 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

(c) An alien who is the subject of an order of exclusion and deportation from the United States pursuant to section 1226 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the United States.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1219.)

§ 4114. Return of transferred offenders

(a) Upon a final decision by the courts of the United States that the transfer of the offender to the United States was not in accordance with the treaty or the laws of the United States and ordering the offender released from serving the sentence in the United States the offender may be returned to the country from which he was transferred to complete the sentence if the country in which the sentence was imposed requests his return. The Attorney General shall notify the appropriate authority of the country which imposed the sentence, within ten days, of a final decision of a court of the United States ordering the offender released. The notification shall specify the time within which the sentencing country must request the return of the offender which shall be no longer than thirty days.

(b) Upon receiving a request from the sentencing country that the offender ordered released be returned for the completion of his sentence, the Attorney General may file a complaint for the return of the offender with any justice or judge of the United States or any authorized magistrate within whose jurisdiction the offender is found. The complaint shall be upon oath and supported by affidavits establishing that the offender was convicted and sentenced by the courts of the country to which his return is requested; the offender was transferred to the United States for the execution of his sentence; the offender was ordered released by a court of the United States before he had completed his sentence because the transfer of the offender was not in accordance with the treaty or the laws of the United States; and that the sentencing country has requested that he be returned for the completion of the sentence. There shall be attached to the complaint a copy of the sentence of the sentencing court and of the decision of the court which ordered the offender released.

A summons or a warrant shall be issued by the justice, judge or magistrate ordering the offender to appear or to be brought before the issuing authority. If the justice, judge, or magistrate finds that the person before him is the offender described in the complaint and that the facts alleged in the complaint are true, he shall issue a warrant for commitment of the offender to the custody of the Attorney General until surrender shall be made. The findings and a copy of all the testimony taken before him and of all documents introduced before him shall be transmitted to the Secretary of State, that a Return Warrant may issue upon the requisition of the proper authorities of the sentencing country, for the surrender of offender.

(c) A complaint referred to in subsection (b) must be filed within sixty days from the date on which the decision ordering the release of the offender becomes final.

(d) An offender returned under this section shall be subject to the jurisdiction of the country to which he is returned for all purposes.

(e) The return of an offender shall be conditioned upon the offender being given credit toward service of the sentence for the time spent in the custody of or under the supervision of the United States.

(f) Sections 3186, 3188 through 3191, and 3195 of this title shall be applicable to the return of an offender under this section. However, an offender returned under this section shall not be deemed to have been extradited for any purpose.

(g) An offender whose return is sought pursuant to this section may be admitted to bail or be released on his own recognizance at any stage of the proceedings.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1219.)

§ 4115. Execution of sentences imposing an obligation to make restitution or reparations

If in a sentence issued in a penal proceeding of a transferring country an offender transferred to the United States has been ordered to pay a sum of money to the victim of the offense for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be transmitted through diplomatic channels to the treaty authority of the transferring country for distribution to the victim.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1220.)

CHAPTER 309—GOOD TIME ALLOWANCES

§ 4161. Computation generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4105 of this title.

§ 4162. Industrial good time

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4105 of this title; title 41 section 42.

§ 4164. Released prisoner as parolee

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4105, 4201, 4205, 4210 of this title.

§ 4165. Forfeiture for offense

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4105 of this title.

§ 4166. Restoration of forfeited commutation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4105 of this title.

CHAPTER 311—PAROLE

§ 4201. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4202. Parole Commission created

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title; title 21 section 848.

§ 4203. Powers and duties of the Commission

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4201, 4204, 4206, 4218, 5005 of this title.

§ 4204. Powers and duties of the Chairman

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4205. Time of eligibility for release on parole

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4201, 4208 of this title.

§ 4206. Parole determination criteria

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4215, 5017, 5041 of this title.

§ 4207. Information considered

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4208. Parole determination proceeding; time

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4209. Conditions of parole

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4213, 4215 of this title.

§ 4210. Jurisdiction of Commission

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4211 of this title.

§ 4211. Early termination of parole

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4210, 4215 of this title.

§ 4212. Aliens

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4213. Summons to appear or warrant for retaking of parolee

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4214 of this title.

§ 4214. Revocation of parole

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4106, 4203, 4209, 4210, 4211, 4213, 4215 of this title.

§ 4215. Reconsideration and appeal

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4216. Young adult offenders

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4218. Applicability of Administrative Procedure Act

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

CHAPTER 319—NATIONAL INSTITUTE OF CORRECTIONS

§ 4351. Establishment; Advisory Board; appointment of members; compensation; officers; committees; delegation of powers; Director, appointment and powers [1]

[*See main edition for text of* (*a*)]

(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board shall consist of sixteen members. The following six individuals shall serve as members of the Commission ex officio: the Director of the Federal Bureau of Prisons or his designee, the Administrator of the Law Enforcement Assistance Administration or his designee, Chairman of the United States Parole Board or his designee, the Director of the Federal Judicial Center or his designee, the Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare or his designee.

[*See main edition for text of* (*c*) *to* (*h*)]

(As amended Pub. L. 95-115, § 8(a), Oct. 3, 1977, 91 Stat. 1060.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-115 substituted "Associate" for "Deputy Assistant" and "Office of" for "National Institute for".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 to take effect on Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of Title 42, The Public Health and Welfare.

PART IV—CORRECTION OF YOUTHFUL OFFENDERS

CHAPTER 402—FEDERAL YOUTH CORRECTIONS ACT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4216 of this title; title 42 section 257.

CHAPTER 403—JUVENILE DELINQUENCY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4101, 4110, 4216; of this title; title 42 section 257.

[1] Section catchline editorially inserted as section was enacted without a catchline.

§ 5037. Dispositional hearing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5038 of this title.

§ 5038. Use of juvenile records

(a) Throughout the juvenile delinquency proceeding the court shall safeguard the records from disclosure. Upon the completion of any juvenile delinquency proceeding whether or not there is an adjudication the district court shall order the entire file and record of such proceeding sealed. After such sealing, the court shall not release these records except to the extent necessary to meet the following circumstances:

[*See main edition for text of* (*1*) *to* (*3*)]

(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;

(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security; and

(6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

Unless otherwise authorized by this section, information about the sealed record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

[*See main edition for text of* (*b*) *to* (*d*)]

(As amended Pub. L. 95-115, § 8(b), Oct. 3, 1977, 91 Stat. 1060.)

AMENDMENT

1977—Subsec. (a)(6). Pub. L. 95-115 added subsec. (a)(6).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 to take effect on Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of Title 42, The Public Health and Welfare.

PART V—IMMUNITY OF WITNESSES

§ 6001. Definitions

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in par. (1) was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

TITLE 18—APPENDIX

RULES OF CRIMINAL PROCEDURE FOR THE UNITED STATES DISTRICT COURTS

As amended to January 1, 1978

III. INDICTMENT AND INFORMATION

Rule 6. The Grand Jury

[*See main edition for text of* (*a*) *to* (*d*)]

(e) Secrecy of Proceedings and Disclosure

(1) *General rule.* A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the Government, or any person to whom disclosure is made under paragraph (2)(A)(ii) of this subdivision shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. No obligation of secrecy may be imposed on any person except in accordance with this rule. A knowing violation of rule 6 may be punished as a contempt of court.

(2) *Exceptions.*

(A) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury, other than its deliberations and the vote of any grand juror, may be made to—

(i) an attorney for the government for use in the performance of such attorney's duty; and

(ii) such government personnel as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce Federal criminal law.

(B) Any person to whom matters are disclosed under subparagraph (A)(ii) of this paragraph shall not utilize that grand jury material for any purpose other than assisting the attorney for the government in the performance of such attorney's duty to enforce Federal criminal law. An attorney for the government shall promptly provide the district court, before which was impaneled the grand jury whose material has been so disclosed, with the names of the persons to whom such disclosure has been made.

(C) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made—

(i) when so directed by a court preliminarily to or in connection with a judicial proceeding; or

(ii) when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury.

(3) *Sealed indictments.* The Federal magistrate to whom an indictment is returned may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial. Thereupon the clerk shall seal the indictment and no person shall disclose the return of the indictment except when necessary for the issuance and execution of a warrant or summons.

[*See main edition for text of* (*f*) *and* (*g*)]

(As amended July 30, 1977, Pub. L. 95-78, § 2(a), 91 Stat. 319.)

NOTES OF ADVISORY COMMITTEE ON RULES

1977 AMENDMENT

The proposed definition of "attorneys for the government" in subdivision (e) is designed to facilitate an increasing need, on the part of government attorneys, to make use of outside expertise in complex litigation. The phrase "other government personnel" includes, but is not limited to, employees of administrative agencies and government departments.

Present subdivision (e) provides for disclosure "to the attorneys for the government for use in the performance of their duties." This limitation is designed to further "the long established policy that maintains the secrecy of the grand jury in federal courts." *United States* v. *Procter and Gamble Co.*, 356 U.S. 677 (1958).

As defined in rule 54(c), "'Attorney for the government means the Attorney General, an authorized assistant of the Attorney General, a United States Attorney, an authorized assistant of a United States Attorney and when applicable to cases arising under the laws of Guam * * *." The limited nature of this definition is pointed out in *In re Grand Jury Proceedings*, 309 F. 2d 440 (3d Cir. 1962) at 443:

> The term attorneys for the government is restrictive in its application. * * * If it had been intended that the attorneys for the administrative agencies were to have free access to matters occurring before a grand jury, the rule would have so provided.

The proposed amendment reflects the fact that there is often government personnel assisting the Justice Department in grand jury proceedings. In *In re Grand Jury Investigation of William H. Pflaumer & Sons, Inc.*, 53 F.R.D. 464 (E.D. Pa. 1971), the opinion quoted the United States Attorney:

> It is absolutely necessary in grand jury investigations involving analysis of books and records, for the government attorneys to rely upon investigative personnel (from the government agencies) for assistance.

See also 8 J. Moore, Federal Practice ¶6.05 at 6-28 (2d ed. Cipes, 1969):

> The rule [6(e)] has presented a problem, however, with respect to attorneys and nonattorneys who are assisting in preparation of a case for the grand jury. * * * These assistants often cannot properly perform their work without having access to grand jury minutes.

Although case law is limited, the trend seems to be in the direction of allowing disclosure to government personnel who assist attorneys for the government in situations where their expertise is required. This is subject to the qualification that the matters disclosed be used only for the purposes of the grand jury investigation. The court may inquire as to the good faith of the assisting personnel, to ensure that access to material is not merely a subterfuge to gather evidence unattainable by means other than the grand jury. This approach was taken in *In re Grand Jury Investigation of William H. Pflaumer & Sons, Inc.*, 53 F.R.D. 464 (E.D. Pa. 1971); *In re April 1956 Term Grand Jury*, 239 F. 2d 263 (7th Cir. 1956); *United States* v. *Anzelimo*, 319 F. Supp. 1106 (D.C. La. 1970). Another case, *Application of Kelly*, 19 F.R.D. 269 (S.D.N.Y. 1956), assumed, without deciding, that assistance given the attorney for the government by IRS and FBI agents was authorized.

The change at line 27 reflects the fact that under the Bail Reform Act of 1966 some persons will be released without requiring bail. See 18 U.S.C. §§ 3146, 3148.

Under the proposed amendment to rule 6(f), an indictment may be returned to a federal magistrate. ("Federal magistrate" is defined in rule 54(c) as including a United States magistrate as defined in 28 U.S.C. § 631-639 and a judge of the United States.) This change will foreclose the possibility of noncompliance with the Speedy Trial Act timetable because of the nonavailability of a judge. Upon the effective date of certain provisions of the Speedy Trial Act of 1974, the timely return of indictments will become a matter of critical importance; for the year commencing July 1, 1976, indictments must be returned within 60 days of arrest or summons, for the year following within 45 days, and thereafter within 30 days. 18 U.S.C. §§ 3161(b) and (f), 3163(a). The problem is acute in a one-judge district where, if the judge is holding court in another part of the district, or is otherwise absent, the return of the indictment must await the later reappearance of the judge at the place where the grand jury is sitting.

A corresponding change has been made to that part of subdivision (f) which concerns the reporting of a "no bill," and to that part of subdivision (e) which concerns keeping an indictment secret.

The change in the third sentence of rule 6(f) is made so as to cover all situations in which by virtue of a pending complaint or information the defendant is in custody or released under some form of conditional release.

NOTES OF COMMITTEE ON THE JUDICIARY, SENATE REPORT NO. 95-354. AMENDMENTS PROPOSED BY THE SUPREME COURT

Rule 6(e) currently provides that "disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the attorneys for the government for use in the performance of their duties." Rule 54(c) defines attorneys for the government to mean "the Attorney General, an authorized assistant to the Attorney General, a United States attorney, and an authorized assistant of the United States attorney, and when applicable to cases arising under the laws of Guam, means the Attorney General of Guam. . . ."

The Supreme Court proposal would change Rule 6(e) by adding the following new language:

> For purposes of this subdivision, "attorneys for the government" includes those enumerated in Rule 54(c); it also includes such other government personnel as are necessary to assist the attorneys for the government in the performance of their duties.

It would also make a series of changes in the rule designed to make its provisions consistent with other provisions in the Rules and the Bail Reform Act of 1966.

The Advisory Committee note states that the proposed amendment is intended "to facilitate an increasing need, on the part of Government attorneys to make use of outside expertise in complex litigation". The note indicated that:

> Although case law is limited, the trend seems to be in the direction of allowing disclosure to Government personnel who assist attorneys for the Government in situations where their expertise is required. This is subject to the qualification that the matter disclosed be used only for the purposes of the grand jury investigation.

It is past history at this point that the Supreme Court proposal attracted substantial criticism, which seemed to stem more from the lack of precision in defining, and consequent confusion and uncertainty concerning, the intended scope of the proposed change than from a fundamental disagreement with the objective.

Attorneys for the Government in the performance of their duties with a grand jury must possess the authority to utilize the services of other government employees. Federal crimes are "investigated" by the FBI, the IRS, or by Treasury agents and not by government prosecutors or the citizens who sit on grand juries. Federal agents gather and present information relating to criminal behavior to prosecutors who analyze and evaluate it and present it to grand juries. Often the prosecutors need the assistance of the agents in evaluating evidence. Also, if further investigation is required during or after grand jury proceedings, or even during the course of criminal trials, the Federal agents must do it. There is no reason for a barrier of secrecy to exist between the facets of the criminal justice system upon which we all depend to enforce the criminal laws.

The parameters of the authority of an attorney for the government to disclose grand jury information in the course of performing his own duties is not defined by Rule 6. However, a commonsense interpretation prevails, permitting "Representatives of other government agencies actively assisting United States attorneys in a grand jury investigation . . . access to grand jury material in the performance of their duties." Yet projected against this current practice, and the weight of case law, is the anomalous language of Rule 6(e) itself, which, in its present state of uncertainty, is spawning some judicial decisions highly restrictive of the use of government experts that require the government to "show the necessity (to the Court) for each particular person's aid rather than showing merely a general necessity for assistance, expert or otherwise" and that make Rule 6(e) orders subject to interlocutory appeal.

In this state of uncertainty, the Committee believes it is timely to redraft subdivision (e) of Rule 6 to make it clear.

Paragraph (1) as proposed by the Committee states the general rule that a grand jury, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or government personnel to whom disclosure is made under paragraph (2)(A)(ii) shall not disclose matters occurring before the grand jury, except as otherwise provided in these rules. It also expressly provides that a knowing violation of Rule 6 may be punished as a contempt of court. In addition, it carries forward the current provision that no obligation of secrecy may be imposed on any person except in accordance with this Rule.

Having stated the general rule of nondisclosure, paragraph (2) sets forth exemptions from nondisclo-

sure. Subparagraph (A) of paragraph (2) provides that disclosure otherwise prohibited, other than the grand jury deliberations and the vote of any grand juror, may be made to an attorney for the government for use in the performance of his duty and to such personnel as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce Federal criminal law. In order to facilitate resolution of subsequent claims of improper disclosure, subparagraph (B) further provides that the names of government personnel designated to assist the attorney for the government shall be promptly provided to the district court and such personnel shall not utilize grand jury material for any purpose other than assisting the attorney for the government in the performance of such attorney's duty to enforce Federal criminal law. Although not expressly required by the rule, the Committee contemplates that the names of such personnel will generally be furnished to the court before disclosure is made to them. Subparagraph (C) permits disclosure as directed by a court preliminarily to or in connection with a judicial proceeding or, at the request of the defendant, upon a showing that grounds may exist for dismissing the indictment because of matters occurring before the grand jury. Paragraph (3) carries forward the last sentence of current Rule 6(e) with the technical changes recommended by the Supreme Court.

The Rule as redrafted is designed to accommodate the belief on the one hand that Federal prosecutors should be able, without the time-consuming requirement of prior judicial interposition, to make such disclosures of grand jury information to other government personnel as they deem necessary to facilitate the performance of their duties relating to criminal law enforcement. On the other hand, the Rule seeks to allay the concerns of those who fear that such prosecutorial power will lead to misuse of the grand jury to enforce non-criminal Federal laws by (1) providing a clear prohibition, subject to the penalty of contempt and (2) requiring that a court order under paragraph (C) be obtained to authorize such a disclosure. There is, however, no intent to preclude the use of grand jury-developed evidence for civil law enforcement purposes. On the contrary, there is no reason why such use is improper, assuming that the grand jury was utilized for the legitimate purpose of a criminal investigation. Accordingly, the Committee believes and intends that the basis for a court's refusal to issue an order under paragraph (C) to enable the government to disclose grand jury information in a non-criminal proceeding should be no more restrictive than is the case today under prevailing court decisions. It is contemplated that the judicial hearing in connection with an application for a court order by the government under subparagraph (3)(C)(i) should be *ex parte* so as to preserve, to the maximum extent possible, grand jury secrecy.

CONGRESSIONAL MODIFICATION OF PROPOSED AMENDMENT

Section 2(a) of Pub. L. 95-78 provided in part that the amendment proposed by the Supreme Court [in its order of Apr. 26, 1977] to subdivision (e) of rule 6 of the Federal Rules of Criminal Procedure [subd. (e) of this rule] is approved in a modified form.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of this rule by order of the United States Supreme Court on Apr. 26, 1977, modified and approved by Pub. L. 95-78, effective Oct. 1, 1977, see section 4 of Pub. L. 95-78, set out as an Effective Date of Pub. L. 95-78 note under section 3771 of this title.

IV. ARRAIGNMENT AND PREPARATION FOR TRIAL

Rule 10. Arraignment

Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to him the substance of the charge and calling on him to plead thereto. He shall be given a copy of the indictment or information before he is called upon to plead.

CODIFICATION

Rule is set out in this supplement to correct typographical error in the main edition.

Rule 16. Discovery and inspection

(a) Disclosure of Evidence by the Government

(1) *Information Subject to Disclosure*

[*See main edition for text of* (*A*) *and* (*B*)]

(C) *Documents and Tangible Objects.* Upon request of the defendant the government shall permit the defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the government, and which are material to the preparation of his defense or are intended for use by the government as evidence in chief at the trial, or were obtained from or belong to the defendant.

[*See main edition for text of* (*D*), (*2*), (*3*), *and* (*b*) *to* (*e*)]

CODIFICATION

Subd. (a)(1)(C) of this rule is set out in this supplement to correct typographical error in the main edition.

VI. TRIAL

Rule 23. Trial by Jury or by the Court

[*See main edition for text of* (*a*)]

(b) Jury of Less than Twelve

Juries shall be of 12 but at any time before verdict the parties may stipulate in writing with the approval of the court that the jury shall consist of any number less than 12 or that a valid verdict may be returned by a jury of less than 12 should the court find it necessary to excuse one or more jurors for any just cause after trial commences.

(c) Trial Without a Jury

In a case tried without a jury the court shall make a general finding and shall in addition, on request made before the general finding, find the facts specially. Such findings may be oral. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

(As amended July 30, 1977, Pub. L. 95-78, § 2(b), 91 Stat. 320.)

NOTES OF ADVISORY COMMITTEE ON RULES

1977 AMENDMENT

The amendment to subdivision (b) makes it clear that the parties, with the approval of the court, may enter into an agreement to have the case decided by less than twelve jurors if one or more jurors are unable or disqualified to continue. For may years the Eastern District of Virginia has used a form entitled, "Waiver of Alternate Jurors." In a substantial percentage of cases the form is signed by the defendant, his attorney, and the Assistant United States Attorney in advance of trial, generally on the morning of trial. It is handled automatically by the courtroom deputy clerk who, after completion, exhibits it to the judge.

This practice would seem to be authorized by existing rule 23(b), but there has been some doubt as to whether the pretrial stipulation is effective unless again agreed to by a defendant at the time a juror or jurors have to be excused. See 8 J. Moore, Federal Practice ¶23.04 (2d. ed. Cipes, 1969); C. Wright, Federal Practice and Procedure: Criminal § 373 (1969). The proposed amendment is intended to make clear that the pretrial stipulation is an effective waiver, which need not be renewed at the time the incapacity or disqualification of the juror becomes known.

In view of the fact that a defendant can make an effective pretrial waiver of trial by jury or by a jury of twelve, it would seem to follow that he can also effectively waive trial by a jury of twelve in situations where a juror or jurors cannot continue to serve.

As has been the practice under rule 23(b), a stipulation addressed to the possibility that some jurors may later be excused need not be open-ended. That is, the stipulation may be conditioned upon the jury not being reduced below a certain size. See, e.g., *Williams* v. *United States*, 332 F.2d 36 (7th Cir. 1964) (agreement to proceed if no more than 2 jurors excused for illness); *Rogers* v. *United States*, 319 F.2d 5 (7th Cir. 1963) (same).

Subdivision (c) is changed to make clear the deadline for making a request for findings of fact and to provide that findings may be oral. The oral findings, of course, become a part of the record, as findings of fact are essential to proper appellate review on a conviction resulting from a nonjury trial. *United States* v. *Livingston*, 459 F.2d 797 (3d Cir. 1972).

The meaning of current subdivision (c) has been in some doubt because there is no time specified within which a defendant must make a "request" that the court "find the facts specially." See, e.g., *United States* v. *Rivera*, 444 F.2d 136 (2d Cir. 1971), where the request was not made until the sentence had been imposed. In the opinion the court said:

> This situation might have raised the interesting and apparently undecided question of when a request for findings under Fed. R. Crim. P. 23(c) is too late, since Rivera's request was not made until the day after sentence was imposed. See generally *Benchwick* v. *United States*, 297 F. 2d 330, 335 (9th Cir. 1961); *United States* v. *Morris*, 263 F.2d 594 (7th Cir. 1959).

NOTES OF COMMITTEE ON THE JUDICIARY, SENATE REPORT No. 95-354. AMENDMENTS PROPOSED BY THE SUPREME COURT

Subsection (b) of section 2 of the bill simply approves the Supreme Court proposed changes in subdivisions (b) and (c) of rule 23 for the reasons given by the Advisory Committee on Rules of Practice and Procedure to the Judicial Conference.

CONGRESSIONAL APPROVAL OF PROPOSED AMENDMENTS

Section 2(b) of Pub. L. 95-78 provided that: "The amendments proposed by the Supreme Court [in its order of Apr. 26, 1977] to subdivisions (b) and (c) of rule 23 of such Rules of Criminal Procedure [subd. (b) and (c) of this rule] are approved."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of this rule by order of the United States Supreme Court on Apr. 26, 1976, approved by Pub. L. 95-78, effective Oct. 1, 1977, see section 4 of Pub. L. 95-78, set out as an Effective Date of Pub. L. 95-78 note under section 3771 of this title.

Rule 24. Trial Jurors

CONGRESSIONAL DISAPPROVAL OF PROPOSED AMENDMENT

Section 2(c) of Pub. L. 95-78, July 30, 1977, 91 Stat. 320, effective Oct. 1, 1977, provided that: "The amendment proposed by the Supreme Court [in its order of Apr. 26, 1977] to rule 24 of such Rules of Criminal Procedure is disapproved and shall not take effect."

IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS

Rule 41. Search and Seizure

[*See main edition for text of (a) and (b)*]

(c) Issuance and Contents

(1) *Warrant upon affidavit.* A warrant other than a warrant upon oral testimony under paragraph (2) of this subdivision shall issue only on an affidavit or affidavits sworn to before the federal magistrate or state judge and establishing the grounds for issuing the warrant. If the federal magistrate or state judge is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. The finding of probable cause may be based upon hearsay evidence in whole or in part. Before ruling on a request for a warrant the federal magistrate or state judge may require the affiant to appear personally and may examine under oath the affiant and any witnesses he may produce, provided that such proceeding shall be taken down by a court reporter or recording equipment and made part of the affidavit. The warrant shall be directed to a civil officer of the United States authorized to enforce or assist in enforcing any law thereof or to a person so authorized by the President of the United States. It shall command the officer to search, within a specified period of time not to exceed 10 days, the person or place named for the property specified. The warrant shall be served in the daytime, unless the issuing authority, by appropriate provision in the warrant, and for reasonable cause shown, authorizes its execution at times other than daytime. It shall designate a federal magistrate to whom it shall be returned.

(2) *Warrant upon oral testimony.*

(A) *General rule.* If the circumstances make it reasonable to dispense with a written affidavit, a Federal magistrate may issue a warrant based upon sworn oral testimony communicated by telephone or other appropriate means.

(B) *Application.* The person who is requesting the warrant shall prepare a document to be known as a duplicate original warrant and shall read such duplicate original warrant, verbatim, to the Federal magistrate. The Federal magistrate shall enter, verbatim, what is so read to such magistrate on a document to

be known as the original warrant. The Federal magistrate may direct that the warrant be modified.

(C) *Issuance.* If the Federal magistrate is satisfied that the circumstances are such as to make it reasonable to dispense with a written affidavit and that grounds for the application exist or that there is probable cause to believe that they exist, the Federal magistrate shall order the issuance of a warrant by directing the person requesting the warrant to sign the Federal magistrate's name on the duplicate original warrant. The Federal magistrate shall immediately sign the original warrant and enter on the face of the original warrant the exact time when the warrant was ordered to be issued. The finding of probable cause for a warrant upon oral testimony may be based on the same kind of evidence as is sufficient for a warrant upon affidavit.

(D) *Recording and certification of testimony.* When a caller informs the Federal magistrate that the purpose of the call is to request a warrant, the Federal magistrate shall immediately place under oath each person whose testimony forms a basis of the application and each person applying for that warrant. If a voice recording device is available, the Federal magistrate shall record by means of such device all of the call after the caller informs the Federal magistrate that the purpose of the call is to request a warrant. Otherwise a stenographic or longhand verbatim record shall be made. If a voice recording device is used or a stenographic record made, the Federal magistrate shall have the record transcribed, shall certify the accuracy of the transcription, and shall file a copy of the original record and the transcription with the court. If a longhand verbatim record is made, the Federal magistrate shall file a signed copy with the court.

(E) *Contents.* The contents of a warrant upon oral testimony shall be the same as the contents of a warrant upon affidavit.

(F) *Additional rule for execution.* The person who executes the warrant shall enter the exact time of execution on the face of the duplicate original warrant.

(G) *Motion to suppress precluded.* Absent a finding of bad faith, evidence obtained pursuant to a warrant issued under this paragraph is not subject to a motion to suppress on the ground that the circumstances were not such as to make it reasonable to dispense with a written affidavit.

[*See main edition for text of* (*d*) *to* (*h*)]

(As amended July 30, 1977, Pub. L. 95-78, § 2(e), 91 Stat. 320.)

NOTES OF ADVISORY COMMITTEE ON RULES

1977 AMENDMENT

Rule 41(c)(2) is added to establish a procedure for the issuance of a search warrant when it is not reasonably practicable for the person obtaining the warrant to present a written affidavit to a magistrate or a state judge as required by subdivision (c)(1). At least two states have adopted a similar procedure, Ariz.Rev.Stat.Ann. §§ 13-1444(c)-1445(c) (Supp. 1973); Cal.Pen. Code §§ 1526(b), 1528(b) (West Supp. 1974), and comparable amendments are under consideration in other jurisdictions. See Israel, Legislative Regulation of Searches and Seizures: The Michigan Proposals, 73 Mich.L.Rev. 221, 258-63 (1975); Nakell, Proposed Revisions of North Carolina's Search and Seizure Law, 52 N.Car.L.Rev. 277, 306-11 (1973). It has been strongly recommended that "every State enact legislation that provides for the issuance of search warrants pursuant to telephoned petitions and affidavits from police officers." National Advisory Commission on Criminal Justice Standards and Goals, Report on Police 95 (1973). Experience with the procedure has been most favorable. Miller, Telephonic Search Warrants: The San Diego Experience, 9 The Prosecutor 385 (1974).

The trend of recent Supreme Court decisions has been to give greater priority to the use of a search warrant as the proper way of making a lawful search:

> It is a cardinal rule that, in seizing goods and articles, law enforcement agents must secure and use search warrants whenever reasonably practicable. . . . This rule rests upon the desirability of having magistrates rather than police officers determine when searches and seizures are permissible and what limitations should be placed upon such activities. *Trupiano* v. *United States*, 334 U.S. 699, 705 (1948), quoted with approval in *Chimel* v. *California*, 395 U.S. 752, 758 (1969).

See also *Coolidge* v. *New Hampshire*, 403 U.S. 443 (1971); Note, Chambers v. Maroney: New Dimensions in the Law of Search and Seizure, 46 Indiana L.J. 257, 262 (1971).

Use of search warrants can best be encouraged by making it administratively feasible to obtain a warrant when one is needed. One reason for the nonuse of the warrant has been the administrative difficulties involved in getting a warrant, particularly at times of the day when a judicial officer is ordinarily unavailable. See L. Tiffany, D. McIntyre, and D. Rotenberg, Detection of Crime 105-116 (1967); LaFave, Improving Police Performance Through the Exclusionary Rule, 30 Mo. L. Rev. 391, 411 (1965). Federal law enforcement officers are not infrequently confronted with situations in which the circumstances are not sufficiently "exigent" to justify the serious step of conducting a warrantless search of private premises, but yet there exists a significant possibility that critical evidence would be lost in the time it would take to obtain a search warrant by traditional means. See, e.g., *United States* v. *Johnson*,—F.2d—(D.C. Cir. June 16, 1975).

Subdivision (c)(2) provides that a warrant may be issued on the basis of an oral statement of a person not in the physical presence of the federal magistrate. Telephone, radio, or other electronic methods of communication are contemplated. For the warrant to properly issue, four requirements must be met:

(1) The applicant—a federal law enforcement officer or an attorney for the government, as required by subdivision (a)—must persuade the magistrate that the circumstances of time and place make it reasonable to request the magistrate to issue a warrant on the basis of oral testimony. This restriction on the issuance of a warrant recognizes the inherent limitations of an oral warrant procedure, the lack of demeanor evidence, and the lack of a written record for the reviewing magistrate to consider before issuing the warrant. See Comment, Oral Search Warrants: A New Standard of Warrant Availability, 21 U.C.L.A. Law Review 691, 701 (1974). Circumstances making it reasonable to obtain a warrant on oral testimony exist if delay in obtaining the warrant might result in the destruction or disappearance of the property [see *Chimel* v. *California*, 395 U.S. 752, 773-774 (1969) (White, dissenting); Landynski, The Supreme Court's Search for Fourth Amendment Standards: The Warrantless Search, 45 Conn. B.J. 2, 25 (1971)]; or because of the time when the warrant is sought, the distance from the magistrate of the person seeking the warrant, or both.

(2) The applicant must orally state facts sufficient to satisfy the probable cause requirement for the issuance of the search warrant. (See subdivision (c)(1).) This information may come from either the applicant federal law enforcement officer or the attorney for the government or a witness willing to make an oral statement. The oral testimony must be recorded at this time so that the transcribed affidavit will provide an adequate basis for determining the sufficiency of the evidence if that issue should later arise. See Kipperman. Inaccurate Search Warant Affidavits as a Ground for Suppressing Evidence, 84 Harv. L. Rev. 825 (1971). It is contemplated that the recording of the oral testimony will be made by a court reporter, by a mechanical recording device, or by a verbatim contemporaneous writing by the magistrate. Recording a telephone conversation is no longer difficult with many easily operated recorders available. See 86:2 L.A. Daily Journal 1 (1973); Miller, Telephonic Search Warrants: The San Diego Experience, 9 The Prosecutor 385, 386 (1974).

(3) The applicant must read the contents of the warrant to the federal magistrate in order to enable the magistrate to know whether the requirements of certainty in the warrant are satisfied. The magistrate may direct that changes be made in the warrant. If the magistrate approves the warrant as requested or as modified by the magistrate, he then issues the warrant by directing the applicant to sign the magistrate's name to the duplicate original warrant. The magistrate then causes to be made a written copy of the approved warrant. This constitutes the original warrant. The magistrate enters the time of issuance of the duplicate original warrant on the face of the original warrant.

(4) Return of the duplicate original warrant and the original warrant must conform to subdivision (d). The transcript of the sworn oral testimony setting forth the grounds for issuance of the warrant must be signed by affiant in the presence of the magistrate and filed with the court.

Because federal magistrates are likely to be accessible through the use of the telephone or other electronic devices, it is unnecessary to authorize state judges to issue warrants under subdivision (c)(2).

Although the procedure set out in subdivision (c)(2) contemplates resort to technology which did not exist when the Fourth Amendment was adopted, the Advisory Committee is of the view that the procedure complies with all of the requirements of the Amendment. The telephonic search warrant process has been upheld as constitutional by the courts, e.g., *People* v. *Peck*, 38 Cal.App.3d 993, 113 Cal.Rptr. 806 (1974), and has consistently been so viewed by commentators. See Israel, Legislative Regulation of Searches and Seizures: The Michigan Proposals, 73 Mich. L.Rev. 221, 260 (1975); Nakell, Proposed Revisions of North Carolina's Search and Seizure Law, 52 N.Car.L.Rev. 277, 310 (1973); Comment, Oral Search Warrants: A New Standard of Warrant Availability, 21 U.C.L.A. Rev. 691, 697 (1973).

Reliance upon oral testimony as a basis for issuing a search warrant is permissible under the Fourth Amendment. *Campbell* v. *Minnesota*, 487 F.2d 1 (8th Cir. 1973); *United States ex rel. Gaugler* v. *Brierley*, 477 F.2d 516 (3d Cir. 1973; *Tabasko* v. *Barton*, 472 F.2d 871 (6th Cir. 1972); *Frazier* v. *Roberts*, 441 F.2d 1224 (8th Cir. 1971). Thus, the procedure authorized under subdivision (c)(2) is not objectionable on the ground that the oral statement is not transcribed in advance of the issuance of the warrant. *People* v. *Peck*, 38 Cal. App. 3d 993, 113 Cal.Rptr. 806 (1974). Although it has been questioned whether oral testimony will suffice under the Fourth Amendment if some kind of contemporaneous record is not made of that testimony, see dissent from denial of certiorari in *Christofferson* v. *Washington*, 393 U.S. 1090 (1969), this problem is not present under the procedure set out in subdivision (c)(2).

The Fourth Amendment requires that warrants issue "upon probable cause, supported by Oath or affirmation." The significance of the oath requirement is "that someone must take the responsibility for the facts alleged, giving rise to the probable cause for the issuance of a warrant." *United States ex rel. Pugh* v. *Pate*, 401 F.2d 6 (7th Cir. 1968); See also *Frazier* v. *Roberts*, 441 F.2d 1224 (8th Cir. 1971). This is accomplished under the procedure required by subdivision (c)(2); the need for an oath under the Fourth Amendment does not "require a face to face confrontation between the magistrate and the affiant." *People* v. *Chavaz*, 27 Cal. App. 3d 883, 104 Cal. Rptr. 247 (1972). See also *People* v. *Aguirre*, 26 Cal. App. 3d 7, 103 Cal. Rptr. 153 (1972), noting it is unnecessary that "oral statements [be] taken in the physical presence of the magistrate."

The availability of the procedure authorized by subdivision (c)(2) will minimize the necessity of federal law enforcement officers engaging in other practices which, at least on occasion, might threaten to a greater extent those values protected by the Fourth Amendment. Although it is permissible for an officer in the field to relay his information by radio or telephone to another officer who has more ready access to a magistrate and who will thus act as the affiant, *Lopez* v. *United States*, 370 F.2d 8 (5th Cir. 1966); *State* v. *Banks*, 250 N.C. 728, 110 S.E.2d 322 (1959), that procedure is less desirable than that permitted under subdivision (c)(2), for it deprives "the magistrate of the opportunity to examine the officer at the scene, who is in a much better position to answer questions relating to probable cause and the requisite scope of the search." Israel, Legislative Regulation of Searches and Seizures: The Michigan Proposals, 73 Mich.L.Rev. 221, 260 (1975). Or, in the absence of the subdivision (c)(2) procedure, officers might take "protective custody" of the premises and occupants for a significant period of time while a search warrant was sought by traditional means. The extent to which the "protective custody" procedure may be employed consistent with the Fourth Amendment is uncertain at best; see Griswold, Criminal Procedure, 1969—Is It a Means or an End?, 29 Md.L.Rev. 307, 317 (1969). The unavailability of the subdivision (c)(2) procedure also makes more tempting an immediate resort to a warrantless search in the hope that the circumstances will later be found to have been sufficiently "exigent" to justify such a step. See Miller, Telephonic Search Warrants: The San Diego Experience, 9 The Prosecutor 385, 386 (1974), noting a dramatic increase in police utilization of the warrant process following enactment of a telephonic warrant statute.

NOTES OF COMMITTEE ON THE JUDICIARY, SENATE REPORT NO. 95-354. AMENDMENTS PROPOSED BY THE SUPREME COURT

The committee agrees with the Supreme Court that it is desirable to encourage Federal law enforcement officers to seek search warrants in situations where they might otherwise conduct warrantless searches by providing for a telephone search warrant procedure with the basic characteristics suggested in the proposed Rule 41(c)(2). As the Supreme Court has observed, "It is a cardinal rule that, in seizing goods and articles, law enforcement agents must secure and use search warrants whenever reasonably practicable." After consideration of the Supreme Court version and a proposal set forth in H.R. 7888, the committee decided to use the language of the House bill as the vehicle, with certain modifications.

A new provision, as indicated in subparagraph (c)(2)(A), is added to establish a procedure for the issuance of a search warrant where the circumstances make it reasonable to dispense with a written affidavit to be presented in person to a magistrate. At least two States have adopted a similar procedure—Arizona and California—and comparable amendments are under consideration in other jurisdictions. Such a procedure

has been strongly recommended by the National Advisory Commission on Criminal Justice Standards and Goals and State experience with the procedure has been favorable. The telephone search warrant process has been upheld as constitutional by the courts and has consistently been so viewed by commentators.

In recommending a telephone search warrant procedure, the Advisory Committee note on the Supreme Court proposal points out that the preferred method of conducting a search is with a search warrant. The note indicates that the rationale for the proposed change is to encourage Federal law enforcement officers to seek search warrants in situations when they might otherwise conduct warrantless searches. "Federal law enforcement officers are not infrequently confronted with situations in which the circumstances are not sufficiently 'exigent' to justify the serious step of conducting a warrantless search of private premises, but yet there exists a significant possibility that critical evidence would be lost in the time it would take to obtain a search warrant by traditional means."

Subparagraph (c)(2)(B) provides that the person requesting the warrant shall prepare a "duplicate original warrant" which will be read and recorded verbatim by the magistrate on an "original warrant." The magistrate may direct that the warrant be modified.

Subparagraph (c)(2)(C) provides that, if the magistrate is satisfied that the circumstances are such as to make it reasonable to dispense with a written affidavit and that grounds for the application exist or there is probable cause to believe that they exist, he shall order the issuance of the warrant by directing the requestor to sign the magistrate's name on the duplicate original warrant. The magistrate is required to sign the original warrant and enter the time of issuance thereon. The finding of probable cause may be based on the same type of evidence appropriate for a warrant upon affidavit.

Subparagraph (c)(2)(D) requires the magistrate to place the requestor and any witness under oath and, if a voice recording device is available, to record the proceeding. If a voice recording is not available, the proceeding must be recorded verbatim stenographically or in longhand. Verified copies must be filed with the court as specified.

Subparagraph (c)(2)(E) provides that the contents of the warrant upon oral testimony shall be the same as the contents of a warrant upon affidavit.

Subparagraph (c)(2)(F) provides that the person who executes the warrant shall enter the exact time of execution on the face of the duplicate original warrant. Unlike H.R. 7888, this subparagraph does not require the person who executes the warrant to have physical possession of the duplicate original warrant at the time of the execution of the warrant. The committee believes this would make an unwise and unnecessary distinction between execution of regular warrants issued on written affidavits and warrants issued by telephone that would limit the flexibility and utility of this procedure for no useful purpose.

Finally, subparagraph (c)(2)(G) makes it clear that, absent a finding of bad faith by the government, the magistrate's judgment that the circumstances made it reasonable to dispense with a written affidavit—a decision that does not go to the core question of whether there was probable cause to issue a warrant—is not a ground for granting a motion to suppress evidence.

Congressional Modification of Proposed Amendment

Section 2(e) of Pub. L. 95-78 provided in part that the amendment by the Supreme Court [in its order of Apr. 26, 1976] to subdivision (c) of rule 41 of the Federal Rules of Criminal Procedure [subd. (c) of this rule] is approved in a modified form.

Effective Date of 1977 Amendment

Amendment of this rule by order of the United States Supreme Court on Apr. 26, 1976, modified and approved by Pub. L. 95-78, effective Oct. 1, 1977, see section 4 of Pub. L. 95-78, set out as an Effective Date of Pub. L. 95-78 note under section 3771 of this title.

CHAPTER 3—THE TARIFF AND RELATED PROVISIONS

§ 161. Amount of duty to be collected

REFERENCES IN TEXT

Section 170a(3) of this title, referred to in subsecs. (b)(3) and (c)(3), was amended by Pub. L. 93-618, title III, § 321(e), Jan. 3, 1975, 88 Stat. 2048 which struck out subdivisions (D) and (F) and redesignated subdivisions (C) and (E) as (B) and (C), respectively.

§ 168. Appraisal

In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided in section 160 of this title, and as to which the appropriate customs officer has made no appraisement before such finding has been so made public, it shall be the duty of such customs officer, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of constructed value to the contrary notwithstanding) the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of sections 160 to 171 of this title.

(May 27, 1921, ch. 14, § 209, 42 Stat. 15; Aug. 14, 1958, Pub. L. 85-630, § 4(b), 72 Stat. 585; June 2, 1970, Pub. L. 91-271, title III, § 313, 84 Stat. 292.)

CODIFICATION

Section 168 has been set out in this Supplement to incorporate the deletion of the word "and" preceding the phrase "the foreign market value" pursuant to Pub. L. 91-271, § 313(d).

CHAPTER 4—TARIFF ACT OF 1930

SUBTITLE I—TARIFF SCHEDULES OF THE UNITED STATES

§ 1202. Revised Tariff Schedules

[28 F.R. 8625]

GENERAL HEADNOTES AND RULES OF INTERPRETATION

[*See main edition for text of (1) and (2)*]

3. *Rates of duty* —The rates of duty in the "Rates of Duty" columns numbered 1 and 2 of the schedules apply to articles imported into the customs territory of the United States as hereinafter provided in this headnote:

[*See main edition for text of (a) and (b)*]

(c) *Products of Countries Designated Beneficiary Developing Countries for Purposes of the Generalized System of Preferences (GSP):*

[*See main edition for text of (i) and (ii)*]

(iii) The following designated eligible articles provided for in TSUS item numbers preceded by the designation "A*", if imported from a beneficiary developing country set opposite the TSUS item numbers listed below, are not entitled to the duty-free treatment provided for in subdivision (c)(ii) of this headnote:

TSUS item No.	*Country or territory*
* * * * *	
[613.18	Deleted]
* * * * *	
653.47	Republic of Korea
653.49	Republic of China
* * * * *	
653.93	Republic of China
* * * * *	
[685.25	Deleted]
685.28	Republic of China
* * * * *	

[*See main edition for text of (d) to (g); 4 to 12*]

AMENDMENTS

General headnote 3(c)(iii), amended by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 6485.

SCHEDULE 1—ANIMAL AND VEGETABLE PRODUCTS [28 F.R. 8629]

[See main edition for text of parts 1 to 4]

PART 5—HIDES, SKINS, AND LEATHER; PURSKINS

[28 F.R. 8645]

GSP	Item	Articles	Rates of Duty 1	Rates of Duty 2
		Subpart A—Hides, Skins, and Leather		
* * *		* * *	* * *	* * *
		Leather, in the rough, partly finished, or unfinished:		
* * *		* * *	* * *	* * *
		Other:		
* * *		* * *	* * *	* * *
		Other:		
		Not fancy:		
		Vegetable-tanned goat and sheep, in the rough:		
* * *		* * *	* * *	* * *
A	121.56	Reptilian	5% ad val.	25% ad val.
	121.58	[Repealed.]		
	121.59	Other	5% ad val.	25% ad val.
* * *		* * *	* * *	* * *

AMENDMENTS

Items 121.56 and 121.59 added and item 121.58 deleted by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption on or after Jan. 1, 1978.

[See main edition for text of parts 6 to 9]

PART 10—SUGAR; COCOA; CONFECTIONERY[5]

[28 F.R. 8669]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
		Subpart A—Sugars, Sirups, and Molasses		
* * *		* * *	* * *	* * *
		Sugars, sirups, and molasses, derived from sugar cane or sugar beets:		
A*	155.20	Principally of crystalline structure or in dry amorphous form..	2.98125¢ per lb. less 0.0421875¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625¢ per lb..	2.98125¢ per lb. less 0.0421875¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625¢ per lb.
* * *		* * *	* * *	* * *
		Not principally of crystalline structure and not in dry amorphous form:		
A	155.30	Containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids..	Dutiable on total sugars at the rate per lb. applicable under item 155.20 to sugar testing 100 degrees..	Dutiable on total sugars at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees.
* * *		* * *	* * *	* * *

[5] Imports of cane and beet sugar and articles in chief value thereof are, in certain circumstances, subject to an additional import duty. See Appendix to Tariff Schedules.

AMENDMENTS

Items 155.20 and 155.30 amended by Proc. No. 4539, Nov. 11, 1977, 42 F.R. 59039, applicable to articles entered, or withdrawn from warehouse, for consumption on and after Nov. 11, 1977, however, provisions not applicable to articles (a) exported to the United States before 12:01 A.M. (U.S. Eastern Standard Time), on

Nov. 11, 1977, or (b) imported to fulfill forward contracts entered into before 12:01 A.M. (U.S. Eastern Standard Time) on Nov. 11, 1977, provided that such articles referred to in (a) and (b) are entered, or withdrawn from warehouse, for consumption on or before Jan. 1, 1978.

Items 155.20 and 155.30 amended by Proc. No. 4463, Sept. 21, 1976, 41 F.R. 41681, and by Proc. No. 4466, Oct. 4, 1976, 41 F.R. 41681, effective with respect to articles entered, or withdrawn from warehouse for consumption on and after Sept. 21, 1976, however, provisions are not effective with respect to articles exported to the United States before 12:01 A.M. (U.S. Eastern Daylight Savings Time), Sept. 21, 1976, provided that such articles are entered, or withdrawn from warehouse, for consumption on or before Nov. 8, 1976.

[See main edition for parts 11 to 14]

PART 15—OTHER ANIMAL AND VEGETABLE PRODUCTS

[28 F.R. 8691]

GSP	Item	Articles	Rates of Duty 1	Rates of Duty 2
* * *		* * *	* * *	* * *
		Subpart G—Miscellaneous Vegetable Products		
* * *		* * *	* * *	* * *
		Straws and other fibrous vegetable substances not specially provided for, crude or processed:		
* * *		* * *	* * *	* * *
	192.65	[Repealed.]		
	192.66	Istle	Free	Free.
	192.70	[Repealed.]		
* * *		* * *	* * *	* * *

AMENDMENTS

Item 192.66 added and items 192.65 and 192.70 repealed by Pub. L. 95-162, § 3(a), (c), Nov. 8, 1977, 91 Stat. 1276, 1277, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

[See main edition for schedules 2 and 3]

SCHEDULE 4—CHEMICALS AND RELATED PRODUCTS [28 F.R. 8781]

[See main edition for parts 1 to 9]

PART 10—PETROLEUM, NATURAL GAS, AND PRODUCTS DERIVED THEREFROM[1]

[28 F.R. 8827]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
		Part 10 headnotes:		
		* * *		
		4. (a) For purposes of this headnote, the term "petroleum" means crude petroleum (including reconstituted crude petroleum) or crude shale oil provided for in items 475.05 or 475.10.		
		(b) Petroleum shall, if a product of Canada, be admitted free of duty and any entry therefor shall be liquidated or reliquidated accordingly if, on or before the 180th day after the date of entry, documentation is filed with the customs officer concerned establishing that, pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Secretary of Energy—		
		(i) an import license for the petroleum covered by such entry has been issued by the Secretary; and		
		(ii) an equivalent amount of domestic petroleum or duty-paid foreign petroleum has, pursuant to such commercial exchange agreement and to an export license issued by the Secretary of Commerce, been exported from the United States to Canada and has not previously been used to effect the duty-free entry of like Canadian products under this headnote.		
		(c) The Secretary of the Treasury, after consulting with the Secretary of Commerce and the Secretary of Energy, shall issue such rules or regulations as may be necessary governing the admission of Canadian products pursuant to the provisions of this headnote.		
* * *		* * *	* * *	* * *

[1] Crude petroleum and certain products thereof are subject to import quotas proclaimed pursuant to section 2 of Public Law 464, 83d Congress, as mended (19 USC 1352a). Proc. 3279, as amended by Procs. 3290, 3328, 3386, 3389, 3509, 3531, and 3541.

AMENDMENTS

Headnote 4 added by Pub. L. 95-159, § 2, Nov. 8, 1977, 91 Stat. 1269, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977 pursuant to commercial exchange agreements referred to in such headnote which are effective for periods beginning on or after Nov. 8, 1977.

[See main edition for parts 11 to 13 and schedule 5]

SCHEDULE 6—METALS AND METAL PRODUCTS [28 F.R. 8865]

[See main edition for parts 1 and 2]

PART 3—METAL PRODUCTS

[28 F.R. 8905]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
* * *		* * *	* * *	* * *
		Subpart F—Miscellaneous Metal Products		
* * *		* * *	* * *	* * *
		Stoves, central-heating furnaces and burners, ranges, cookers, grates, space heaters and similar heating or cooking apparatus, all the foregoing, of base metal, not electrically operated, of types used in the household, hotels, restaurants, or offices; and parts thereof, of base metal:		
* * *		* * *	* * *	* * *
A*	653.47	Fireplace grates and parts thereof, wholly or almost wholly of cast-iron.	6% ad val.	45% ad val.
A*	653.49	Stoves and stove parts wholly or almost wholly of cast-iron.	6% ad val.	45% ad val.
A	653.50	[Repealed.]		
A	653.51	Other	6% ad val.	45% ad val.
		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal:		
* * *		* * *	* * *	* * *
		Articles, wares, and parts, of base metal, not coated or plated with precious metal:		
		Of iron or steel:		
		Not enameled or glazed with vitreous glasses:		
* * *		* * *	* * *	* * *
		Other:		
A*	653.93	Cooking ware, and parts thereof, wholly or almost wholly of cast-iron.	8.5% ad val.	40% ad val.
A	653.94	Other	8.5% ad val.	40% ad val.
	653.95	[Repealed.]		
* * *		* * *	* * *	* * *

AMENDMENTS

Item 653.50 deleted and items 653.47, 653.49 and 653.51 added by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

Item 653.95 deleted and items 653.93 and 653.94 added by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

PART 4—MACHINERY AND MECHANICAL EQUIPMENT

[28 F.R. 8923]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
* * *		* * *	* * *	* * *
		Subpart F—Machines for Working Metal, Stone, and Other Materials		
* * *		* * *	* * *	* * *
		Machine tools:		
		Metal working machine tools:		
* * *		* * *	* * *	* * *
		Other machine tools:		
* * *		* * *	* * *	* * *
	674.41	Copying lathes used for making rough or finished shoe lasts from models of shoe lasts and, in addition, capable of producing more than one size shoe last from a single size model of a shoe last.	Free	Free
* * *		* * *	* * *	* * *
	674.48	Work and tool holders and other parts of, and accessories used principally with, copying lathes provided for in item 674.41	Free	Free.
		Work and tool holders and other parts of, and accessories used principally with, machine tools (other than copying lathes provided for in item 674.41); tool holders for the mechanical hand tools provided for in items 651.27, 674.70, and 683.20:		
* * *		* * *	* * *	* * *

AMENDMENTS

Items 674.41 and 674.48 added and superior heading to items 674.50 through 674.56, inclusive, amended by Pub. L. 95-162, § 1 (a), (c), Nov. 8, 1977, 91 Stat. 1275, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

PART 5—ELECTRICAL MACHINERY AND EQUIPMENT

[28 F.R. 3935]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
		Part 5 headnotes:		
		* * *		
		3. For the purpose of this part *"transceivers"* are combinations of radio transmitting and receiving equipment in a common housing, employing common circuit components for both transmitting and receiving, and which are not capable of simultaneously receiving and transmitting.		
* * *		* * *	* * *	* * *
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:		
* * *		* * *	* * *	* * *
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof:		
* * *		* * *	* * *	* * *
		Other:		
		Solid-state (tubeless) radio receivers:		
* * *		* * *	* * *	* * *
	685.25	[Repealed.]		
A	685.26	Low-power radio telephonic transceivers operating on frequencies from 49.82 to 49.90 megahertz.	6% ad val.	35% ad val.
A*	685.28	Other	6% ad val.	35% ad val.
* * *		* * *	* * *	* * *

AMENDMENTS

Headnote 3 added by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

Item 685.25 deleted and items 685.26 and 685.28 added by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

[See main edition for part 6]

SCHEDULE 7—SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS [28 F.R. 8943]

[See main edition for parts 1 to 4]

PART 5—ARMS AND AMMUNITION; FISHING TACKLE; WHEEL GOODS; SPORTING GOODS, GAMES AND TOYS

[28 F.R. 8981]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
• • •		• • •	• • •	• • •
		Subpart C—Wheel Goods		
• • •		• • •	• • •	• • •
		Parts of bicycles:		
		Frames:		
• • •		• • •	• • •	• • •
A	732.35	Coaster brakes designed for single-speed bicycles	15% ad val.	30% ad val.
	732.36	[Repealed.]		
	732.37	Other parts of bicycles	15% ad val.	30% ad val.
• • •		• • •	• • •	• • •
		Subpart D—Games and Sporting Goods		
• • •		• • •	• • •	• • •
		Skis and ski equipment, snowshoes, sleds, and toboggans, all the foregoing and parts thereof:		
• • •		• • •	• • •	• • •
	734.97	[Repealed.]		
	734.98	Bobsleds and luges of a kind used in international competition.	Free	Free.
A	734.99	Other	9% ad val.	45% ad val.
• • •		• • •	• • •	• • •

AMENDMENTS

Item 732.36 deleted and items 732.35 and 732.37 added by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

Items 734.97 repealed and 734.98 and 734.99 added by Pub. L. 95-170, § 2, Nov. 12, 1977, 91 Stat. 1351, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 12, 1977.

[See main edition for part 6]

PART 7—BUTTONS, BUCKLES, PINS, AND OTHER FASTENING DEVICES; ARTIFICIAL AND PRESERVED FLOWERS AND FOLIAGE; MILLINERY ORNAMENTS; TRIMMINGS; AND FEATHER PRODUCTS

[28 F.R. 8993]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
		Subpart A—Buttons, Buckles, Pins, Hooks and Eyes, and Slide Fasteners		
• • •		• • •	• • •	• • •
		Clasps, handbag and similar frames incorporating clasps, and snap fasteners; all the foregoing and parts thereof:		
		Valued not over 20 cents per dozen pieces or parts:		
		Sew-on fasteners and parts thereof:		
	745.61	Of plastics, in clips suitable for use in a mechanical attaching device.	27.5% ad val.	60% ad val.
A	745.62	Other	27.5% ad val.	60% ad val.
	745.63	[Repealed.]		
• • •		• • •	• • •	• • •

AMENDMENTS

Item 745.63 deleted and items 745.61 and 745.62 added by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

[*See main edition for parts 8 to 11*]

PART 12—RUBBER AND PLASTICS PRODUCTS

[28 F.R. 9005]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
* * *		* * *	* * *	* * *
		Subpart B—Rubber and Plastics Waste and Scrap; Rubber and Plastics Film, Strips, Sheets, Plates, Slabs, Blocks, Filaments, Rods, Tubing and Other Profile Shapes		
		Subpart B headnotes:		
		* * *		
		2. This subpart does not cover—		
		* * *		
		(iv) film, strips, sheets, and plates, which—		
		* * *		
		(D) have been ground on the edges, drilled, milled, hemmed, or otherwise usefully processed (except surface-processed); or		
* * *		* * *	* * *	* * *

AMENDMENTS

Subpart B, headnote 2(iv)(D) amended by Pub. L. 95-160, § 3, Nov. 8, 1977, 91 Stat. 1271, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

PART 13—PRODUCTS NOT ELSEWHERE ENUMERATED

[28 F.R. 9011]

GSP	Item	Articles	Rates of duty 1	Rates of duty 2
* * *		* * *	* * *	* * *
		Subpart B—Articles of Fur and of Leather		
* * *		* * *	* * *	* * *
		Wearing apparel not specially provided for, of leather:		
* * *		* * *	* * *	* * *
		Other:		
	791.74	Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article.	6% ad val.	35% ad val.
* * *		* * *	* * *	* * *

AMENDMENTS

Item 791.74 amended by Ex. Ord. No. 12005, July 23, 1977, 42 F.R. 38167, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered, or withdrawn from warehouse, for consumption on or after Mar. 1, 1977.

[*See main edition for part 14*]

SCHEDULE 8—SPECIAL CLASSIFICATION PROVISIONS [28 F.R. 9017]

PART 1—ARTICLES EXPORTED AND RETURNED

[28 F.R. 9019]

Item	Articles	Rates of duty 1	Rates of duty 2
	* * *		
	Subpart A—Articles not Advanced or Improved Abroad		
* * *	* * *	* * *	* * *
801.20	Any aircraft engine or propeller, or any part or accessory of either, previously imported, with respect to which the duty was paid upon such previous importation, if (1) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, after having been exported under loan, lease, or rent to an aircraft owner or operator as a temporary replacement for an aircraft engine being overhauled, repaired, rebuilt, or reconditioned in the United States, and (2) reimported by or for the account of the person who exported it from the United States.	Free	Free.
* * *	* * *	* * *	* * *

AMENDMENTS

Item 801.20 added by Pub. L. 95-198, §§ 1, 2, Nov. 23, 1977, 91 Stat. 1422, to apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 23, 1977.

[*See main edition for parts 2 to 6*]

APPENDIX TO THE TARIFF SCHEDULES [28 F.R. 9043]

PART 1—TEMPORARY LEGISLATION

[28 F.R. 9045]

Item	Articles	Rates of duty 1	Rates of duty 2	Effective period
* * *	* * *	* * *	* * *	* * *
	Subpart B—Temporary Provisions Amending the Tariff Schedules			
	Subpart B headnotes:			
	* * *			
	4. For so long as items 905.10 and 905.11 are in effect, headnotes 3, 4, and 5 of subpart C of part 1 of schedule 3 shall be suspended (except insofar as they relate to hair of the camel) and in lieu thereof— (a) for purposes of item 307.40— (i) the classification provisions for wool not finer than 46s shall apply to any package of wool containing not over 10 percent by weight of wool finer than 46s but not containing wool finer than 48s; and (ii) the citation for imports classifiable under item 307.40 shall be such item number followed by the item number for the part of the contents of the package which determines the rate of duty; and (b) for purposes of item 905.11, a tolerance of not more than 10 percent of wools not finer than 48s may be allowed in each bale or package of wools imported as not finer than 46s.			
	Horses, other than for immediate slaughter (provided for in part 1, schedule 1):			
903.50	Valued not over $150 per head (item 100.73)	Free	No change	On or before 6/30/80.
903.51	Value over $150 per head (item 100.75)	Free	No change	On or before 6/30/80.
* * *	* * *	* * *	* * *	* * *
903.90	[Repealed.]			
	Wool (provided for in part 1C, schedule 3):			
905.10	All wool provided for in items 306.00 through 306.24	Free	Free	On or before 6/30/80.

PART 1—TEMPORARY LEGISLATION—Continued

[28 F.R. 9045]

Item	Articles	Rates of duty 1	Rates of duty 2	Effective period
905.11	Wool not finer than 46s provided for in items 306.30 through 306.34.	Free	Free	On or before 6/30/80.
	Yarns, wholly of noncontinuous silk fibers (provided for in part 1D, schedule 3):			
905.30	Singles, not bleached and not colored, measuring over 58,800 yards per pound (item 308.40)..	Free	Free	On or before 6/30/80.
905.31	Plied, not bleached and not colored, measuring over 29,400 yards per pound (item 308.50)..	Free	Free	On or before 6/30/80.
907.10	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure (provided for in item 403.60, part 1B, schedule 4) to be used in the manufacture of photographic color couplers.	Free	No change	On or before 6/30/80.
907.12	Photographic color couplers (provided for in item 405.20, part 1C, schedule 4).	Free	No change	On or before 6/30/80.
907.20	Doxorubicin hydrochloride (provided for in item 407.85, part 1, or in item 437.32 or 438.02, part 3, schedule 4, depending on source).	Free	No change	On or before 6/30/80.
* * *	* * *	* * *	* * *	* * *
907.70	Concentrate of poppy straw (however provided for in part 3 of schedule 4) when imported for use in producing codeine or morphine.	Free	Free	On or before 6/30/80.
907.75	Intravenous fat emulsion (provided for in item 440.00, part 3C, schedule 4).	Free	Free	On or before 6/30/80.
* * *	* * *	* * *	* * *	* * *
911.25	Synthetic rutile (provided for in item 603.70, pt. 1, schedule 6)..	Free	No change	On or before 6/30/79.
911.27	Synthetic tantalum/columbium concentrate (provided for in item 603.70, pt. 1, schedule 6).	Free	No change	On or before 6/30/80.
911.70	[Repealed.]			
912.05	Generator lighting sets for bicycles, and parts thereof (provided for in item 653.39, part 3F, schedule 6).	Free	No change	On or before 6/30/80.
* * *	* * *	* * *	* * *	* * *
912.08	Mattress blanks of rubber latex (provided for in item 727.86, part 4A, schedule 7).	Free	No change	On or before 6/30/78.
912.10	Caliper brakes, drum brakes, coaster brakes, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, click stick levers, multiple free wheel sprockets, cotterless type crank sets, rims, parts of all the foregoing, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle (provided for in items 732.35 and 732.37, part 5C, schedule 7).	Free	No change	On or before 6/30/80
912.12	Sheets, over 0.90 inch but not over 1.50 inches in thickness, of molded pin core latex foam rubber (provided for in item 770.70, part 12A, schedule 7).	Free	No change	On or before 6/30/78

AMENDMENTS

Subpart B, headnote 4, added by Pub. L. 95-162, § 2(a)(1), (b), Nov. 8, 1977, 91 Stat. 1275, 1276, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

Items 903.50 and 903.51 amended by Pub. L. 95-159, § 1 (a), (b), Nov. 8, 1977, 91 Stat. 1269, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

Item 903.90 repealed by Pub. L. 95-162, § 3(b), (c), Nov. 8, 1977, 91 Stat. 1277, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

Items 905.10 and 905.11 added by Pub. L. 95-162, § 2(a)(2), (b), Nov. 8, 1977, 91 Stat. 1276, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

Items 905.30 and 905.31 amended by Pub. L. 95-172, § 1(a), (b), Nov. 12, 1977, 91 Stat. 1358, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 12, 1977.

Items 907.10 and 907.12 added by Pub. L. 95-206, § 2, Dec. 12, 1977, 91 Stat. 1462, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Dec. 12, 1977.

Item 907.20 added by Pub. L. 95-159, § 3, Nov. 8, 1977, 91 Stat. 1270, applicable with respect to articles entered, or withdrawn from warehouse, for consumption after Nov. 8, 1977.

Item 907.70 added by Pub. L. 95-161, § 2, Nov. 8, 1977, 91 Stat. 1273, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

Item 907.75 added by Pub. L. 95-206, § 1, Dec. 12, 1977, 91 Stat. 1462, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Dec. 12, 1977.

Item 911.25 amended by Pub. L. 95-160, § 2, Nov. 8, 1977, 91 Stat. 1271, applicable with respect to articles entered, or withdrawn from warehouse for consumption after June 30, 1977.

Item 911.27 added by Pub. L. 95-161, § 1, Nov. 8, 1977, 91 Stat. 1273, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

Item 911.70 repealed by Pub. L. 95-162, § 1(b), (e), Nov. 8, 1977, 91 Stat. 1275, effective Nov. 8, 1977.

Items 912.05 and 912.10 amended by Pub. L. 95-161, § 3(a) to (c), Nov. 8, 1977, 91 Stat. 1273, 1274, applicable with respect to articles entered, or withdrawn from warehouse, on or after Nov. 8, 1977.

Item 912.08 added by Pub. L. 95-170, § 1(a), (b), Nov. 12, 1977, 91 Stat. 1351, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 12, 1977.

Item 912.10 amended by Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, effective with respect to articles that are both imported on or after Jan. 1, 1976, and entered or withdrawn from warehouse for consumption, on or after Jan. 1, 1978.

Item 912.12 added by Pub. L. 95-160, § 1(a), (b), Nov. 8, 1977, 91 Stat. 1271, applicable with respect to articles entered, or withdrawn from warehouse, for consumption on or after Nov. 8, 1977.

LIQUIDATION OR RELIQUIDATION OF CERTAIN ARTICLES

The following Public Laws provided for the liquidation or reliquidation of certain articles entered or withdrawn during the periods specified:

Pub. L. 95-172, § 1(c), Nov. 12, 1977, 91 Stat. 1358—Silk yarn—After Nov. 7, 1975, and before Nov. 12, 1977.

Pub. L. 95-170, § 1(c), Nov. 12, 1977, 91 Stat. 1351—Mattress blanks of rubber latex—After May 9, 1977, and before Nov. 12, 1977.

Pub. L. 95-162, § 1(d), Nov. 8, 1977, 91 Stat. 1275—Metalworking lathes—After June 30, 1976, and before Nov. 8, 1977.

Pub. L. 95-161, § 3(d), Nov. 8, 1977, 91 Stat. 1274—Bicycle articles—After Dec. 31, 1976, and before Nov. 8, 1977.

Pub. L. 95-160, § 1(c), Nov. 8, 1977, 91 Stat. 1271—Latex sheets—After May 9, 1977, and before Nov. 8, 1977.

Pub. L. 95-159, § 1(c), Nov. 8, 1977, 91 Stat. 1269—Horses—After June 30, 1976, and before Nov. 8, 1977.

PART 2—TEMPORARY MODIFICATIONS PROCLAIMED PURSUANT TO TRADE-AGREEMENTS LEGISLATION

[28 F.R. 9049]

Item	Articles	Rates of duty	
		1	2
	Part 2 headnote: 1. This part contains the temporary modifications of the provisions in the tariff schedules proclaimed by the President pursuant to trade-agreements legislation. Unless otherwise stated, the modified provisions are effective until suspended or terminated.		
	Subpart A—Escape-Clause Actions		
	Subpart A headnotes:		
	• • •		
	2. *Quantitative limitations on stainless steel and alloy tool steel.*—The provisions of this headnote apply to items 923.20 to 923.26, inclusive, of this subpart. The quantitative import limitations imposed are in addition to the duties provided for the restrained articles in schedule 6, part 2B. (a) *Definitions.*—For the purposes of this subpart—		
	• • •		
	(iii) The term *"alloy tool steel"* in item 923.26 refers to alloy steel which contains the following combinations of elements in the quantity, by weight, respectively indicated: not less than 1.0% carbon and over 11.0% chromium; or not less than 0.3% carbon and 1.25% to 11.0% inclusive chromium; or not less than 0.85% carbon and 1% to 1.8% inclusive manganese; or 0.9% to 1.2% inclusive chromium and 0.9% to 1.4% inclusive molybdenum; or not less than 0.5% carbon and not less than 3.5% molybdenum; or not less than 0.5% carbon and not less than 5.5% tungsten; but does not include any of such alloy tool steel which contains, in addition to iron, each of the following elements by weight in the amounts specified; carbon: not less than 0.95 nor more than 1.13 percent; manganese: not less than 0.22 nor more than 0.46 percent; sulfur: none, or not more than 0.03 percent; phosphorus: none, or not more than 0.03 percent; silicon: not less than 0.18 nor more than 0.37 percent; chromium: not less than 1.25 nor more than 1.65 percent; nickel: none, or not more than 0.28 percent; copper: none, or not more than 0.38 percent; molybdenum: none, or not more than 0.09 percent; (iv) the term *"razor blade steel"* in item 923.20 refers to stainless steel strip not over 0.010 inch in thickness and not over 0.9 inch in width, containing by weight not less than 0.6 percent and not over 0.75 percent carbon, and containing by weight not less than 11.5 percent and not over 14.7 percent chromium, certified at the time of entry to be used in the manufacture of razor blades.		
	• • •		

PART 2—TEMPORARY MODIFICATIONS PROCLAIMED PURSUANT TO TRADE-AGREEMENTS LEGISLATION—Continued
[28 F.R. 9049]

Item	Articles	Rates of duty 1	Rates of duty 2

Subpart A—Escape-Clause Actions—Continued

(f) *Adjustments.*—Upon appropriate request of the Government of Japan for an adjustment of the quota quantities between items as provided for herein, the Special Representative shall modify the provisions of this subpart accordingly, such modification to be effective on or after the date of its publication in the FEDERAL REGISTER. The modification in the quota quantities for imports from Japan cannot exceed the percentage of the respective base limits shown below and must be accompanied by an equal tonnage reduction in the quota quantity from Japan for one or more of the other items during the same restraint period.

Item	Restraint periods					
	June 14, 1976—June 13, 1977		June 14, 1977—June 13, 1978		June 14, 1978—June 13, 1979	
	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase
	1,000 s. tons	Percent	1,000 s. tons	Percent	1,000 s. tons	Percent
923.20	38.6	10	38.9	10	39.8	10
923.21	5.6	1	5.9	1	6.3	1
923.22	13.0	1	14.0	3	14.5	3
923.23	5.7	1	5.9	3	6.0	3
923.26	3.5	1	3.7	3	3.8	3

* * *

3. *Quantitative limitation on certain footwear.*—The provisions of this headnote apply to items 923.90 through 923.94, inclusive, of this subpart. The quantitative import limitations imposed are in addition to the duties provided for the restrained articles in schedule 7, part 1A. The import restrictions provided for in this subpart do not apply to footwear with an aggregate value not over $100 in any shipment, if imported for the personal use of the importer.

(a) *Definitions.*—For the purposes of this subpart—

(i) the term *"footwear"* means all the footwear provided for in schedule 7, part 1A, except the following: footwear provided for in items 700.51 through 700.54, item 700.60, item 700.75, and disposable footwear, designed for one-time use, provided for in item 700.85;

(ii) the term *"athletic footwear"* means footwear of special construction for baseball, football, soccer, track, skating, skiing, and other athletic games, or sports; and

(iii) the term *"restraint period"* refers to the period beginning June 28, 1977, and ending June 30, 1978, and thereafter to the three subsequent 12-month periods beginning July 1 in one year and ending at the close of June 30 of the following year.

(b) *Export visa.*—None of the footwear provided for herein exported on or after June 28, 1977, from the foreign countries involved may be entered unless such footwear is accompanied by an appropriate export visa issued by the government of the exporting country.

(c) *Footwear in bonded warehouse.*—All footwear exported from the Republic of China that is in bonded warehouse as of May 14, 1977, and all footwear exported from the Republic of Korea that is in bonded warehouse as of May 16, 1977, may be withdrawn for consumption without an export visa on or before the 20th day following the date of publication in the *Federal Register* of the orderly marketing agreements concerning footwear negotiated with such countries. Thereafter such footwear may be withdrawn for consumption only if it is accompanied by an appropriate export visa issued by the government of the exporting country.

(d) *Footwear exported prior to June 28, 1977.*—All footwear not covered by paragraph (c), which was exported from the foreign country involved prior to June 28, 1977, may be entered prior to September 1, 1977, without the requirement of export visas, provided that

PART 2—TEMPORARY MODIFICATIONS PROCLAIMED PURSUANT TO TRADE-AGREEMENTS LEGISLATION—Continued

[28 F.R. 9049]

Item	Articles	Rates of duty	
		1	2
	Subpart A—Escape-Clause Actions—Continued		
	all such footwear entered on or after June 1, 1977, in excess of 33 million pairs from the Republic of China and 9 million pairs from the Republic of Korea shall be counted against the respective restraint levels for the first restraint period by pro-rating such imports among the respective TSUS items for each country as follows: For the Republic of China, item 923.90, 8 percent, item 923.91, 86 percent, and item 923.92, 6 percent; and for the Republic of Korea, item 923.93, 35 percent, and item 923.94, 65 percent. No such footwear may be entered on or after September 1, 1977, unless accompanied by an appropriate export visa issued by the exporting country and such footwear shall be counted against the applicable restraint levels. (e) *Footwear exported and entered in different restraint periods.*—Footwear which is exported from the foreign country during one restraint period, but is entered more than 90 days following the beginning of the subsequent restraint period, shall be counted against the restraint levels for that subsequent restraint period. Footwear, which is exported from the foreign country during one restraint period in excess of the restraint level for such item for such period, may be entered after the beginning of the next restraint period and shall be counted against the restraint level for such item for such subsequent restraint period. (f) *Carryover.*—Except as provided for in paragraph (h), if the restraint level for any item has not been filled for a restraint period, upon appropriate request of the foreign government involved, the shortfall may be entered under the same item during the following restraint period provided that the amount of shortfall so entered does not exceed 11 percent of the restraint level for the restraint period during which the shortfall occurred. If, in accordance with the provisions of paragraph (ij), all or part of a restraint level of any item has been reallocated to the restraint level of one or more of the other items, such amount will not be considered a shortfall, and therefore is not available for carryover. (g) *Exceeding restraint levels.*—Upon appropriate request of the foreign government involved, restraint levels for each item may be exceeded by not more than 6 percent during any one restraint period, except as provided for in paragraph (h). If a restraint level is exceeded during a restraint period, the Special Representative for Trade Negotiations shall make a downward adjustment of the restraint level for the next succeeding restraint period in the absolute amount the preceding restraint level was exceeded. (h) *Limitation on paragraphs (f) and (g).*—Paragraphs (f) and (g) may not be used in combination to increase the restraint level applicable to any item in any restraint period by more than 11 percent. (ij) *Adjustments.*—Upon appropriate request of the foreign government involved for an adjustment of the restraint levels between items as provided for herein, the Special Representative for Trade Negotiations shall adjust the restraint level accordingly, such adjustments to be effective on and after the date of their publication in the *Federal Register.* Except as provided for later in this paragraph, an upward adjustment in a restraint level for exports from a foreign country shall not exceed the percentage of the respective base limit shown below and must be accompanied by a downward adjustment in the same absolute amount of the restraint level applicable to one or more of the other items set forth in the table below for exports during the same restraint period from the foreign country involved. The Special Representative for Trade Negotiations may, in his discretion, permit an upward adjustment of not over 50 percent of any restraint level applicable to item 923.92 in any restraint period provided that the restraint levels applicable to items 923.90 or 923.91 in the same restraint period are reduced by the same absolute amount.		

PART 2—TEMPORARY MODIFICATIONS PROCLAIMED PURSUANT TO TRADE-AGREEMENTS LEGISLATION—Continued

[28 F.R. 9049]

Item	Articles	Rates of duty 1	Rates of duty 2

Restraint periods

Item	June 28, 1977–June 30, 1978		July 1, 1978–June 30, 1979		July 1, 1979–June 30, 1980		July 1, 1980–June 30, 1981	
	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase
	1,000 pairs	*Percent*	*1,000 pairs*	*Percent*	*1,000 pairs*	*Percent*	*1,000 pairs*	*Percent*
923.90	9,760	10	10,000	10	10,240	10	10,480	10
923.91	104,680	10	107,250	10	109,820	10	112,400	10
923.92	7,560	15	7,750	15	7,940	15	8,120	15
923.93	11,520	10	12,740	10	13,090	10	13,260	10
923.94	21,480	15	23,760	15	24,410	15	24,740	15

Articles	Rates of duty 1	Rates of duty 2
Subpart A—Escape-Clause Actions—Continued		
(k) *United States International Trade Commission (USITC) reports and surveys.*—The USITC shall issue reports and conduct surveys with respect to footwear as follows: (i) *Quarterly.*—Reports by calendar quarter showing monthly data on U.S. production, imports for consumption, apparent U.S. consumption, employment and prices. The initial report shall cover 1975, 1976 and the first two quarters of 1977; the last such report shall cover the quarter which ends not less than 60 days prior to the termination of the import relief. The reports shall be published within 60 days of the end of a quarter. (ii) *Annually.*—Annual surveys to obtain from domestic producers data on profits, orders, capacity, inventories, prices, capital expenditures, and research and development expenditures; and to obtain from importers data on prices, orders, and inventories. The initial survey shall cover the calendar year 1976 and the calendar year 1977, and the results shall be published by May 31, 1978. The results of subsequent surveys shall be published by May 31 of each year thereafter so long as the import relief is in effect.		
. . .	. . .	. . .

Articles	Quota quantity (in short tons) effective on or after— June 14, 1976	June 14, 1977	June 14, 1978
Whenever, in any restraint period the respective aggregate quantity of articles specified below for item 923.20, 923.21, 923.22, 923.23, or 923.26, the product of a specified foreign country or instrumentality, has been entered (whether, for tariff purposes, in schedule 6 or in parts 1, 2, and 5 of schedule 8), no article in such item the product of such country or instrumentality may be entered during the remainder of such restraint period:			
. . .	. . .	. . .	. . .
923.25 [Repealed.]			
923.26 Alloy tool steel of the types provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08 within the specifications of headnote 2(a)(iii):			
Japan	3,500	3,700	3,800
European Economic Community	3,400	3,500	3,600
Canada	1,900	2,000	2,000
Sweden	8,500	8,600	8,700
Austria	6	2,322	2,385
Other:			
Countries entitled to the rate of duty in rates of duty column numbered 1 (total)	3,600	1,378	1,415
Other (total)	none	6	6

PART 2—TEMPORARY MODIFICATIONS PROCLAIMED PURSUANT TO TRADE-AGREEMENTS LEGISLATION—Continued

[28 F.R. 9049]

Item	Articles	Quota Quantity (in 1,000 pairs)			
		Exported on or after—			
	Subpart A—Escape-Clause Actions—Continued	June 28, 1977	July 1, 1978	July 1, 1979	July 1, 1980
	Whenever the respective aggregate quantity of footwear specified below for items 923.90 through 923.94, inclusive, the product of a specified foreign country, has been exported in any restraint period from that country and has been entered, no article in such item the product of such country exported during such restraint period may be entered, except as provided in headnote 3:				
	Republic of China:				
923.90	Footwear provided for in items 700.05 through 700.45.	9,760	10,000	10,240	10,480
923.91	Footwear provided for in item 700.58	104,680	107,250	109,820	112,400
923.92	Footwear provided for in items 700.66 through 700.85 (except item 700.75 and disposable footwear, designed for one-time use provided for in item 700.85).	7,560	7,750	7,940	8,120
	Republic of Korea:				
923.93	Footwear (except athletic footwear) provided for in items 700.05 through 700.45.	11,520	12,740	13,090	13,260
923.94	Athletic footwear provided for in items 700.05 through 700.45, and footwear provided for in item 700.58 and items 700.66 through 700.85 (except item 700.75 and disposable footwear, designed for one-time use provided for in item 700.85).	21,480	23,760	24,410	24,740
. . .	. . .		. . .		

AMENDMENTS

Subpart A, headnote 2, amended by Proc. No. 4509, June 15, 1977, 42 F.R. 30829, effective as to articles entered, or withdrawn from warehouse, for consumption on and after June 17, 1977.

Subpart A, headnote 3, added by Proc. No. 4510, June 22, 1977, 42 F.R. 32430, effective June 28, 1977, and to continue in force through June 30, 1981, unless the period of its effectiveness is earlier expressly modified or terminated.

Items 923.25 and 923.26 deleted, and item 923.26 added by Proc. No. 4509, June 15, 1977, 42 F.R. 30829, effective as to articles entered, or withdrawn from warehouse, for consumption on and after June 17, 1977.

Items 923.90 through 923.94 added by Proc. No. 4510, June 22, 1977, 42 F.R. 32430, effective as of June 28, 1977, and to continue in force through June 30, 1981, unless the period of their effectiveness is earlier expressly modified or terminated.

PART 3—ADDITIONAL IMPORT RESTRICTIONS PROCLAIMED PURSUANT TO SECTION 22 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

[28 F.R. 9055]

Item	Articles	Quota quantity
	Part 3 headnotes:	
	. . .	
	4. Sugar, sirups, and molasses Licenses may be issued by the Secretary of Agriculture or his designee authorizing the entry of articles exempt from the fees provided for in items 956.10, 956.20, 957.10 and 957.20 of this part on the condition that such articles will be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines are necessary to insure the use of such articles only for such purposes.	
. . .	. . .	. . .

PART 3—ADDITIONAL IMPORT RESTRICTIONS PROCLAIMED PURSUANT TO SECTION 22 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED—Continued

[28 F.R. 9055]

Item	Articles	Import Fees
	Sugars, sirups, and molasses, derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4:.	
	Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule 1:	
956.10	Valued at not more than 6.67 cents per pound	50% ad. val.
956.20	Valued at more than 6.67 cents per pound but not more than 10.0 cents per pound.	3.32 cents per lb. less the amount per lb. by which the value exceeds 6.67 cents per lb.
	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule 1:	
957.10	Valued at not more than 6.67 cents per pound of total sugars.	50% ad. val.
957.20	Valued at more than 6.67 cents per pound of total sugars but not more than 10.0 cents per pound of total sugars.	3.32 cents per lb. of total sugars less the amount per lb. of total sugars by which the value exceeds 6.67 cents per lb. of total sugars

AMENDMENTS

Headnote 4 added by Proc. No. 4538, Nov. 11, 1977, 42 F.R. 59037.

Items 956.10 and 956.20 added by Proc. No. 4538, Nov. 11, 1977, 42 F.R. 59037.

Items 957.10 and 957.20 added by Proc. No. 4538, Nov. 11, 1977, 42 F.R. 59037.

SUBTITLE II—SPECIAL PROVISIONS

§ 1330. Organization of Commission

[*See main edition for text of (a) and (b)*]

(c) Chairman and vice chairman; quorum

(1) The chairman and the vice chairman of the Commission shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation. The President shall notify the Congress of his designations under this paragraph.

(2) After June 16, 1978, the terms of office for the chairman and vice chairman of the Commission shall be as follows:

(A) The first term of office occurring after such date shall begin on June 17, 1978, and end at the close of June 16, 1980.

(B) Each term of office thereafter shall begin on the day after the closing date of the immediately preceding term of office and end at the close of the 2-year period beginning on such day.

(3)(A) The President may not designate as the chairman of the Commission for any term—

(i) either of the two commissioners most recently appointed to the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or

(ii) any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.

(B) The President may not designate as the vice chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman for that term is a member.

(C) If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of his term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. Designation of a chairman under this subparagraph may be made without regard to the limitation set forth in subparagraph (A)(i).

(4) The vice chairman shall act as chairman in case of the absence or disability of the chairman. During any period in which there is no chairman or vice chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.

(5) No commissioner shall actively engage in any business, vocation, or employment other than that of serving as a commissioner.

(6) A majority of the commissioners in office shall constitute a quorum, but the Commission may function notwithstanding vacancies.

[*See main edition for text of (d)*]

(e) Authorization of appropriations

(1) For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be appropriated to the Commission only such sums as may hereafter be provided by law.

(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1978 an amount not to exceed $11,522,000.

(3) There are authorized to be appropriated to the Commission for each fiscal year after September 30, 1977, in addition to any other

amount authorized to be appropriated for such fiscal year, such sums as may be necessary for increases authorized by law in salary, pay, retirement, and other employee benefits.

(As amended Aug. 17, 1977, Pub. L. 95-106, §§ 1, 2(a), 91 Stat. 867.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-106, § 2(a), added provisions in par. (1) for the Congressional notification of Presidential designations, substituted, in par. (2), provisions covering the expiration of terms of office after June 16, 1978, for provisions covering the expiration of terms of office on and after June 17, 1975, added par. (3), and redesignated as pars. (4) to (6) provisions formerly contained in par. (1).

Subsec. (e). Pub. L. 95-106, § 1, designated existing provisions as par. (1) and added pars. (2) and (3).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2(b) of Pub. L. 95-106 provided that: "The amendment made by this section [amending subsec. (c) of this section] shall apply with respect to the designation of chairmen and vice chairmen of the United States International Trade Commission for terms beginning after June 16, 1978."

§ 1331. General powers

(a) Administration

(1) Except as provided in paragraph (2), the chairman of the Commission shall—

(A) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

(B) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, and

(C) exercise and be responsible for all other administrative functions of the Commission.

Any decision by the chairman under this paragraph shall be subject to disapproval by a majority vote of all the commissioners in office.

(2) Subject to approval by a majority vote of all the commissioners in office, the chairman may—

(A) terminate the employment of any supervisory employee of the Commission whose duties involve substantial personal responsibility for Commission matters and who is compensated at a rate equal to, or in excess of, the rate for grade GS-15 of the General Schedule in section 5332 of title 5, and

(B) formulate the annual budget of the Commission.

(3) No member of the Commission, in making public statements with respect to any policy matter for which the Commission has responsibility, shall represent himself as speaking for the Commission, or his views as being the views of the Commission, with respect to such matter except to the extent that the Commission has adopted the policy being expressed.

[*See main edition for text of* (b)]

(c) Expenses

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other places than at their respective headquarters, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner).

(d) Principal office at Washington

The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such agents as it may designate, prosecute any inquiry necessary to its duties in any part of the United States or in any foreign country.

(e) Office at New York

The commission is authorized to establish and maintain an office at the port of New York for the purpose of directing or carrying on any investigation, receiving and compiling statistics, selecting, describing, and filing samples of articles, and performing any of the duties or exercising any of the powers imposed upon it by law.

(f) Official seal

The commission is authorized to adopt an official seal, which shall be judicially noticed.

[(g) Redesignated (f)]

(As amended Aug. 17, 1977, Pub. L. 95-106, § 3(a), (b), 91 Stat. 868.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-106, § 3(a), designated existing provisions as par. (1), and in par. (1) as so designated, substituted provisions authorizing the chairman to perform certain required functions subject to approval by the Commission for provisions authorizing the Commission to perform certain required functions and added provisions requiring the chairman to exercise and be responsible for all other administrative functions of the Commission and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-106, § 3(b)(1), substituted "approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner)" for "approved by the Commission".

Subsec. (d). Pub. L. 95-106, § 3(b)(2), redesignated former subsec. (e) as (d). Former subsec. (d), relating to offices and supplies, was struck out.

Subsec. (e). Pub. L. 95-106, § 3(b)(2), redesignated former subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 95-106, § 3(b)(2), redesignated former subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 95-106, § 3(b)(2), redesignated subsec. (g) as (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(c) of Pub. L. 95-106 provided that: "The amendments made by this section [amending subsecs. (a), (c), and (d) to (g) of this section] take effect on the date of enactment of this Act [Aug. 17, 1977]."

§ 1332. Investigations

CONTINUATION OF REPORTS WITH RESPECT TO SYNTHETIC ORGANIC CHEMICALS

Pub. L. 95-106, § 5, Aug. 17, 1977, 91 Stat. 869, provided that: "The International Trade Commission is hereby directed to make, for each calendar year ending before January 1, 1981, reports with respect to synthetic organic chemicals similar in scope to the reports made with respect to such chemicals for the calendar year 1976."

§ 1484. Entry of merchandise

[*See main edition for text of* (*a*) *to* (*d*)]

(e) Statistical enumeration

The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

[*See main edition for text of* (*f*) *to* (*j*)]

(As amended Aug. 17, 1977, Pub. L. 95-106, § 4, 91 Stat. 869.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-106 substituted "production and programs for achieving international harmonization of trade statistics," for "production,".

CHAPTER 12—TRADE ACT OF 1974

§ 2462. Beneficiary developing countries

EX. ORD. NO. 11888. IMPLEMENTING THE GENERALIZED SYSTEM OF PREFERENCES

Ex. Ord. No. 11888, Nov. 24, 1975, 40 F.R. 55276, as amended by Ex. Ord. No. 11906, Feb. 26, 1976, 41 F.R. 8758; Ex. Ord. No. 11934, Aug. 30, 1976, 41 F.R. 37084; Ex. Ord. No. 11960, Jan. 19, 1977, 42 F.R. 4317; Ex. Ord. No. 11974, Feb. 25, 1977, 42 F.R. 11230A; Ex. Ord. No. 12032, Dec. 27, 1977, 42 F.R. 64851, provided:

[*See main edition for text of Ex. Ord. preceding Annex II*]

ANNEX II
TSUS item

100.25	100.31	100.73	100.95	105.30	105.60	105.84	106.40	106.70	106.75
106.80	106.85	107.10	107.15	107.25	107.40	107.65	107.75	107.80	110.28
110.35	110.45	111.10	111.15	111.18	111.56	111.60	112.03	112.36	112.40
112.94	113.01	113.30	113.40	113.50	113.60	114.05	114.25	114.55	117.65
117.67	119.50	119.55	120.17	121.10	121.15	121.25	121.35	121.54	121.56
121.65	123.50	124.20	124.25	124.30	124.40	124.60	124.65	124.70	124.80
125.01	125.10	125.15	125.20	125.30	125.50	125.70	125.80	126.41	126.71
127.10	130.20	130.30	131.20	131.80	135.41	135.50	135.60	135.70	135.94
136.10	136.40	136.50	136.90	136.92	137.01	137.40	140.11	140.16	140.38
140.46	141.05	141.20	141.45	141.50	141.79	145.02	145.24	145.28	145.30
145.54	146.42	146.66	146.73	146.80	147.21	147.29	147.92	148.35	149.60
152.00	152.05	152.58	152.60	153.08	153.16	153.24	153.32	154.10	154.55
154.60	155.30	155.40	155.60	155.75	156.25	156.30	156.40	156.47	157.10
161.19	161.37	161.43	161.45	161.61	161.65	161.71	161.75	161.79	161.83
161.92	161.94	161.96	162.03	162.07	162.11	162.15	165.55	166.10	166.20
166.30	167.05	167.15	167.25	167.34	167.40	167.50	168.17	168.18	168.23
168.24	168.26	168.33	168.35	168.48	168.52	168.55	175.51	176.01	176.14
176.30	176.49	176.50	176.70	177.12	177.16	177.22	177.24	177.26	177.40
177.58	177.62	177.69	177.72	178.30	182.05	182.10	182.11	182.15	182.20
182.30	182.32	182.35	182.36	182.40	182.45	182.46	182.52	182.58	182.90
182.96	184.50	186.10	186.15	186.20	186.30	186.50	188.30	188.34	188.50
190.10	190.25	190.68	191.15	192.45	192.70	193.10	200.06	200.45	202.38
202.40	202.54	202.56	202.60	202.66	203.10	203.30	204.05	204.10	204.20
204.30	204.35	206.30	206.45	206.50	206.52	206.53	206.54	206.95	207.00
220.31	220.36	220.39	220.47	222.30	222.32	222.36	222.40	222.41	222.42
222.44	222.55	222.57	222.60	222.64	240.00	240.03	240.04	240.06	240.14
240.16	240.19	240.21	240.30	240.32	240.34	240.36	240.40	240.50	240.52
240.54	240.56	240.58	240.60	245.00	245.10	245.20	245.30	245.45	245.50
245.60	245.70	245.80	251.10	251.15	251.20	251.25	251.30	251.45	251.49
252.05	252.10	252.13	252.15	252.17	252.20	252.25	252.27	252.30	252.35
252.40	252.42	252.45	252.50	252.57	252.59	252.61	252.63	252.67	252.70
252.73	252.75	252.77	252.79	252.81	252.84	252.86	252.90	253.05	253.10
253.15	253.20	253.25	253.30	253.35	253.40	253.45	254.05	254.09	254.15
254.18	254.20	254.25	254.30	254.35	254.40	254.42	254.44	254.46	254.48
254.50	254.54	254.56	254.58	254.63	254.65	254.70	254.75	254.80	254.85
254.90	254.95	256.05	256.10	256.13	256.15	256.20	256.25	256.30	256.35
256.40	256.42	256.44	256.48	256.52	256.54	256.56	256.58	256.65	256.67
256.70	256.75	256.90	270.45	270.50	273.30	273.50	273.55	273.65	273.70
273.75	273.85	273.90	273.95	274.05	274.10	274.15	274.20	274.23	274.27
274.29	274.33	274.35	274.60	274.65	274.70	274.75	274.80	274.85	274.90
304.10	304.12	304.14	304.20	304.22	304.44	305.50	306.42	306.53	306.60
306.61	306.70	306.71	306.72	306.80	306.81	306.82	307.02	307.04	307.06
307.16	308.06	308.10	308.16	308.18	308.20	308.35	308.40	308.45	308.47
308.50	308.51	308.55	308.80	308.90	312.10	312.30	312.40	312.50	315.75
316.70	335.70	335.85	339.10	347.20	347.28	347.35	347.72	347.75	355.20
355.42	355.55	360.36	360.77	360.79	360.84	361.53	364.09	364.14	364.18
364.25	364.35	365.05	365.14	365.91	370.19	370.22	385.95	389.61	390.16
403.02	403.04	403.06	403.08	403.10	403.40	403.42	403.44	403.46	403.58
403.70	403.75	403.78	403.79	403.90	405.04	405.06	405.10	405.15	405.20

ANNEX II—Continued
TSUS item—Continued

405.25	405.30	405.35	405.40	405.45	405.55	406.80	407.02	407.04	407.06
407.10	407.20	407.25	407.30	407.32	407.35	407.40	407.45	407.50	407.55
407.60	407.70	407.80	407.90	408.05	408.10	408.15	408.20	408.25	408.30
408.35	408.45	408.60	408.70	408.75	408.80	409.00	415.20	415.27	415.50
416.05	416.10	416.30	416.45	417.10	417.14	417.16	417.18	417.20	417.22
417.24	417.26	417.28	417.30	417.32	417.34	417.36	417.38	417.42	417.44
417.50	417.52	417.54	417.64	417.70	417.72	417.74	417.76	417.78	417.80
417.92	418.00	418.14	418.18	418.22	418.24	418.26	418.28	418.32	418.40
418.42	418.44	418.50	418.52	418.60	418.62	418.68	418.72	418.74	418.76
418.94	419.00	419.02	419.04	419.10	419.20	419.22	419.24	419.28	419.32
419.34	419.38	419.40	419.42	419.44	419.50	419.52	419.54	419.60	419.70
419.74	419.76	419.80	419.82	419.84	419.90	420.00	420.02	420.04	420.06
420.08	420.14	420.16	420.18	420.20	420.22	420.24	420.26	420.28	420.30
420.34	420.36	420.40	420.54	420.60	420.68	420.70	420.78	420.84	420.86
420.88	420.94	420.98	421.04	421.06	421.08	421.10	421.14	421.16	421.18
421.22	421.34	421.36	421.44	421.46	421.52	421.54	421.60	421.62	421.72
421.74	421.76	421.84	421.86	421.90	422.00	422.10	422.12	422.14	422.20
422.24	422.26	422.30	422.58	422.60	422.62	422.70	422.72	422.74	422.78
422.80	422.82	422.90	422.92	422.94	423.00	423.80	423.84	423.86	423.88
423.94	423.96	425.02	425.04	425.06	425.08	425.09	425.10	425.12	425.14
425.18	425.20	425.22	425.24	425.26	425.28	425.32	425.34	425.36	425.38
425.41	425.42	425.52	425.70	425.72	425.74	425.76	425.78	425.82	425.87
425.88	425.94	426.00	426.04	426.08	426.10	426.12	426.14	426.18	426.22
426.24	426.26	426.28	426.32	426.34	426.36	426.42	426.44	426.52	426.54
426.56	426.58	426.62	426.64	426.72	426.76	426.77	426.78	426.82	426.84
426.86	426.88	426.92	426.94	426.96	426.98	427.02	427.04	427.06	427.08
427.12	427.14	427.16	427.18	427.20	427.22	427.24	427.25	427.28	427.30
427.40	427.42	427.44	427.45	427.46	427.48	427.53	427.54	427.56	427.58
427.60	427.62	427.64	427.70	427.72	427.74	427.82	427.84	427.92	427.94
427.97	427.98	428.04	428.06	428.12	428.20	428.22	428.24	428.26	428.30
428.32	428.34	428.36	428.40	428.42	428.44	428.46	428.50	428.52	428.54
428.58	428.62	428.64	428.66	428.68	428.72	428.80	428.82	428.84	428.86
428.88	428.90	428.92	428.94	428.96	429.00	429.10	429.12	429.20	429.22
429.24	429.26	429.30	429.32	429.34	429.38	429.42	429.44	429.46	429.47
429.48	429.60	429.70	429.85	429.95	435.10	435.70	437.02	437.04	437.06
437.10	437.12	437.13	437.14	437.18	437.20	437.22	437.24	437.30	437.32
437.36	437.38	437.40	437.44	437.49	437.50	437.51	437.52	437.54	437.55
437.56	437.57	437.58	437.60	437.65	437.68	437.69	437.70	437.72	437.74
437.82	437.84	437.86	438.01	438.02	439.30	439.50	440.00	445.05	445.10
445.15	445.20	445.25	445.30	445.35	445.40	445.45	445.50	445.75	446.10
446.12	446.15	446.30	450.10	450.20	452.24	452.48	452.54	452.58	452.80
455.02	455.06	455.16	455.18	455.20	455.22	455.24	455.30	455.32	455.34
455.36	455.38	455.44	455.46	460.10	460.15	460.25	460.30	460.45	460.50
460.55	460.65	460.70	460.75	460.80	460.85	460.90	461.10	461.20	461.30
461.35	461.40	461.45	465.05	465.10	465.15	465.20	465.25	465.30	465.35
465.40	465.45	465.50	465.55	465.60	465.65	465.75	465.80	465.85	465.87
465.90	465.92	465.95	466.05	466.10	466.15	466.20	466.25	466.30	470.15
470.25	470.55	470.57	470.85	472.06	472.10	472.14	472.24	472.30	472.40
472.42	472.44	472.48	472.50	473.02	473.06	473.10	473.12	473.14	473.16
473.18	473.19	473.20	473.24	473.28	473.30	473.32	473.36	473.38	473.44
473.50	473.54	473.60	473.70	473.72	473.74	473.76	473.78	473.80	473.82
473.84	473.86	473.88	473.90	474.02	474.04	474.06	474.08	474.20	474.22
474.26	474.30	474.35	474.40	474.42	474.44	474.46	474.50	474.60	474.62
475.55	475.60	485.10	485.20	485.30	490.05	490.10	490.24	490.30	490.32
490.40	490.42	490.46	490.48	490.50	490.90	490.92	490.94	493.10	493.16
493.18	493.20	493.22	493.25	493.26	493.30	493.46	493.47	493.50	493.67
493.68	494.04	494.52	494.60	495.05	495.10	495.15	495.20	511.11	511.25
511.41	511.61	511.71	512.24	512.31	512.35	512.41	513.21	513.36	513.41
513.51	513.74	513.81	513.94	514.21	514.24	514.34	514.41	514.44	514.51
514.57	514.61	514.65	514.81	515.11	515.14	515.24	515.31	515.34	515.51
515.54	515.61	515.64	516.21	516.91	517.11	517.21	517.27	517.51	517.61
517.71	517.74	517.81	517.91	518.21	518.44	518.51	519.11	519.14	519.31
519.37	519.51	519.83	519.84	519.86	519.91	519.93	519.95	519.97	520.31
520.37	520.39	520.54	520.61	520.71	521.87	522.41	522.45	522.71	522.81
523.31	523.33	523.35	523.37	523.51	523.61	523.91	523.94	531.01	531.04
531.11	531.21	531.24	531.33	531.35	531.37	531.39	532.14	532.31	532.41
532.61	533.11	533.14	533.16	533.23	533.25	533.41	534.11	534.21	534.31
534.74	534.76	534.81	534.84	534.87	534.91	534.94	534.97	535.11	535.12
535.14	535.21	535.24	535.27	535.41	536.11	536.15	540.11	540.13	540.14
540.15	540.37	540.41	540.43	540.51	540.55	540.61	540.63	540.65	540.67
540.71	541.11	541.21	541.31	543.11	544.14	544.16	544.18	544.41	544.51
544.54	544.61	544.64	545.11	545.17	545.21	545.25	545.27	545.34	545.35
545.37	545.55	545.57	545.61	545.63	545.67	545.81	545.85	545.87	546.21
546.25	546.40	546.42	546.43	546.44	546.46	546.48	546.49	546.50	547.11
547.13	547.15	547.21	547.31	547.37	547.41	547.43	547.51	547.53	547.55
548.01	548.03	548.05	601.27	601.33	602.10	602.20	602.28	602.30	603.10
603.15	603.25	603.30	603.40	603.49	603.54	603.55	603.70	605.03	605.05
605.06	605.08	605.27	605.48	605.60	605.65	607.12	607.18	607.35	607.36
607.37	607.45	607.51	607.57	608.04	608.05	608.06	608.08	608.10	608.25
608.27	608.30	608.32	609.12	609.13	609.15	609.88	609.90	610.56	610.58
610.62	610.63	610.65	610.66	610.70	610.74	610.80	612.05	612.08	612.10
612.17	612.20	612.30	612.31	612.32	612.34	612.35	612.36	612.38	612.39
612.40	612.41	612.43	612.44	612.45	612.50	612.52	612.55	612.56	612.60
612.61	612.62	612.63	612.64	612.71	612.73	612.80	612.81	612.82	613.02
613.03	613.04	613.06	613.08	613.10	613.11	613.12	613.15	613.18	618.10
618.15	618.17	618.20	618.22	618.25	618.27	618.29	618.40	618.42	618.47
620.10	620.12	620.16	620.20	620.22	620.26	620.30	620.40	620.42	620.46
620.50	622.15	622.17	622.22	622.25	622.40	624.04	624.10	624.12	624.14

ANNEX II—Continued
TSUS item—Continued

624.16	624.18	624.20	624.22	624.24	624.30	624.32	624.34	624.40	624.52
624.54	626.15	626.17	626.18	626.20	626.22	626.24	626.30	626.31	626.35
626.40	626.45	628.15	628.20	628.25	628.30	628.35	628.45	628.50	628.55
628.59	628.70	628.74	628.90	628.95	629.05	629.10	629.20	629.25	629.26
629.50	629.60	629.65	632.02	632.04	632.12	632.18	632.34	632.42	632.60
632.62	632.66	633.00	640.05	640.20	640.25	640.30	640.35	640.40	642.09
642.16	642.18	642.20	642.25	642.27	642.30	642.45	642.47	642.50	642.52
642.54	642.56	642.58	642.60	642.62	642.64	642.66	642.68	642.70	642.72
642.74	642.76	642.78	642.80	642.82	642.85	642.87	642.93	644.02	644.06
644.08	644.09	644.11	644.12	644.15	644.17	644.18	644.20	644.22	644.24
644.26	644.28	644.30	644.32	644.36	644.38	644.40	644.42	644.46	644.48
644.52	644.56	644.60	644.64	644.68	644.72	644.76	644.80	644.84	644.88
644.92	644.95	644.98	646.02	646.06	646.17	646.20	646.22	646.27	646.28
646.30	646.32	646.34	646.36	646.40	646.41	646.42	646.45	646.47	646.51
646.53	646.54	646.56	646.57	646.65	646.72	646.74	646.75	646.76	646.77
646.78	646.82	646.85	646.87	646.88	646.95	646.97	647.01	647.03	647.05
647.10	648.51	648.53	648.55	648.57	648.61	648.63	648.67	648.69	648.71
648.73	648.75	648.85	648.89	648.91	648.93	648.95	648.97	649.01	649.03
649.05	649.07	649.11	649.14	649.17	649.19	649.21	649.23	649.24	649.25
649.26	649.27	649.29	649.31	649.32	649.33	649.35	649.37	649.41	649.43
649.44	649.46	649.47	649.48	649.49	649.53	649.57	649.67	649.73	649.75
649.77	649.79	649.81	649.83	649.85	649.87	649.89	649.91	650.05	650.07
650.13	650.19	650.35	650.37	650.43	650.51	650.53	650.57	650.61	650.63
650.65	650.71	650.73	650.75	650.77	650.81	650.85	650.89	651.01	651.04
651.07	651.09	651.11	651.13	651.15	651.21	651.23	651.25	651.27	651.29
651.31	651.33	651.37	651.45	651.47	651.51	651.53	651.55	651.60	651.62
652.03	652.06	652.09	652.12	652.15	652.18	652.21	652.24	652.27	652.30
652.33	652.35	652.36	652.38	652.41	652.42	652.45	652.55	652.65	652.70
652.72	652.75	652.80	652.86	652.88	652.90	652.92	652.93	652.98	653.05
653.07	653.10	653.15	653.20	653.25	653.30	653.35	653.37	653.39	653.45
653.51	653.60	653.62	653.65	653.70	653.75	653.80	653.90	653.94	653.97
654.00	654.05	654.10	654.15	654.20	656.05	656.10	656.15	656.25	656.30
656.35	657.10	657.15	657.20	657.30	657.35	657.40	657.50	657.60	657.70
657.75	657.80	658.00	660.10	660.15	660.20	660.22	660.25	660.30	660.35
660.42	660.46	660.52	660.54	660.65	660.70	660.75	660.80	660.85	660.92
660.94	661.09	661.10	661.12	661.15	661.20	661.25	661.30	661.35	661.40
661.45	661.50	661.55	661.65	661.70	661.85	661.90	661.92	661.95	662.10
662.15	662.18	662.20	662.26	662.35	662.50	664.05	664.10	666.10	666.25
668.00	668.02	668.04	668.06	668.07	668.10	668.15	668.20	668.32	668.34
668.36	668.38	668.50	670.00	670.02	670.04	670.06	670.12	670.14	670.16
670.17	670.18	670.19	670.20	670.22	670.23	670.25	670.27	670.29	670.33
670.35	670.40	670.41	670.42	670.43	670.50	670.52	670.54	670.56	670.64
670.66	670.68	670.70	670.72	670.74	670.90	672.15	672.20	672.22	672.25
674.10	674.20	674.30	674.32	674.35	674.40	674.42	674.50	674.52	674.53
674.55	674.60	674.70	674.75	674.80	674.90	676.07	676.10	676.12	676.15
676.20	676.22	676.23	676.25	676.30	676.50	678.20	678.30	678.32	678.35
678.40	678.45	680.05	680.07	680.12	680.15	680.20	680.22	680.25	680.27
680.40	680.45	680.47	680.48	680.52	680.54	680.57	680.60	680.70	680.90
682.05	682.07	682.20	682.25	682.30	682.40	682.50	682.52	682.55	682.60
682.70	682.80	682.90	682.95	683.10	683.15	683.20	683.30	683.32	683.40
683.50	683.60	683.65	683.90	683.95	684.10	684.15	684.20	684.30	684.40
684.62	684.64	684.70	685.10	685.26	685.40	685.42	685.60	685.70	686.22
686.24	686.40	686.50	686.60	686.70	686.80	686.90	687.10	687.20	687.37
688.04	688.06	688.15	688.20	688.25	688.30	688.35	690.05	690.10	690.15
690.20	690.40	692.04	692.14	692.16	692.35	692.40	692.45	692.50	692.55
692.60	694.15	694.20	694.30	694.40	694.50	694.60	694.70	696.05	696.10
696.15	696.30	696.35	696.40	696.50	696.60	702.14	702.15	702.25	702.28
702.30	702.32	702.35	702.37	702.40	702.47	704.85	702.90	702.95	703.20
703.25	703.30	703.35	703.40	703.45	703.50	703.55	703.60	703.70	703.72
703.80	703.85	704.75	704.80	704.95	705.30	705.90	706.04	706.45	706.47
706.50	708.01	708.03	708.05	708.07	708.09	708.21	708.23	708.25	708.27
708.29	708.41	708.43	708.45	708.47	708.51	708.52	708.53	708.55	708.57
708.59	708.71	708.72	708.73	708.75	708.76	708.78	708.80	708.82	708.85
708.87	708.89	708.91	708.93	709.01	709.03	709.05	709.06	709.07	709.09
709.10	709.11	709.13	709.15	709.17	709.19	709.21	709.23	709.25	709.27
709.40	709.45	709.50	709.54	709.55	709.56	709.57	709.61	709.63	709.66
710.04	710.06	710.08	710.12	710.14	710.16	710.20	710.21	710.26	710.27
710.30	710.34	710.36	710.40	710.42	710.46	710.50	710.60	710.61	710.63
710.65	710.67	710.68	710.70	710.72	710.76	710.78	710.80	710.86	710.88
710.90	711.04	711.08	711.25	711.34	711.36	711.37	711.40	711.42	711.45
711.47	711.49	711.55	711.60	711.67	711.82	711.83	711.84	711.86	711.88
711.90	711.98	712.05	712.10	712.12	712.15	712.20	712.25	712.27	712.47
712.49	713.05	713.09	713.11	713.17	715.20	720.80	720.92	721.10	722.02
722.04	722.10	722.12	722.14	722.16	722.18	722.30	722.32	722.34	722.40
722.42	722.44	722.46	722.50	722.52	722.55	722.56	722.60	722.64	722.70
722.72	722.75	722.78	722.80	722.82	722.83	722.85	722.86	722.88	722.90
722.92	722.94	722.96	723.05	723.10	723.15	723.20	723.25	723.30	723.32
723.35	724.10	724.12	724.20	724.25	724.40	724.45	725.03	725.04	725.06
725.10	725.12	725.14	725.16	725.18	725.20	725.22	725.24	725.26	725.30
725.32	725.34	725.36	725.38	725.40	725.46	725.47	725.50	725.52	726.05
726.10	726.15	726.20	726.25	726.40	726.45	726.50	726.52	726.55	726.60
726.62	726.63	726.65	726.75	726.90	727.02	727.04	727.06	727.15	727.30
727.35	727.40	727.45	727.47	727.48	727.52	727.55	727.86	728.05	728.10
728.15	728.20	728.25	730.05	730.23	730.25	730.31	730.37	730.39	730.43
730.45	730.51	730.53	730.55	730.57	730.59	730.63	730.65	730.67	730.71
730.73	730.74	730.75	730.77	730.80	730.81	730.85	730.86	730.88	730.90
730.91	730.92	730.93	731.05	731.06	731.20	731.22	731.24	731.26	731.30
731.42	731.44	731.50	731.60	732.35	732.40	732.50	732.52	732.60	732.62

ANNEX II—Continued
TSUS item—Continued

734.05	734.15	734.20	734.32	734.40	734.42	734.45	734.60	734.70	734.71
734.72	734.75	734.77	734.80	734.85	734.86	734.88	734.90	734.91	734.93
734.95	734.96	734.99	735.05	735.09	735.10	735.12	735.15	735.17	735.18
735.20	737.07	737.09	737.15	737.25	737.30	737.35	737.45	737.50	737.55
737.60	737.65	737.70	740.05	740.38	740.50	740.55	740.60	740.70	740.75
740.80	741.06	741.10	741.15	741.25	741.30	741.35	741.40	741.50	745.04
745.10	745.20	745.25	745.28	745.30	745.34	745.45	745.50	745.52	745.54
745.56	745.58	745.60	745.62	745.65	745.66	745.67	745.68	748.05	748.10
745.15	748.20	748.21	748.25	748.32	748.34	748.36	750.05	750.10	750.15
750.20	750.22	750.32	750.40	750.45	750.47	750.50	750.55	750.60	750.70
750.75	750.80	751.10	751.11	751.15	751.25	755.05	755.10	755.20	755.25
755.40	755.45	755.50	756.02	756.04	756.06	756.10	756.15	756.21	756.23
756.25	756.30	756.35	756.40	756.45	756.50	756.55	756.60	760.10	760.12
760.20	760.30	760.32	760.34	760.36	760.38	760.40	760.42	760.45	760.50
760.52	760.54	760.56	760.58	766.20	770.05	770.07	770.10	770.30	770.40
770.45	770.70	770.80	771.20	771.25	771.30	771.31	771.35	771.40	771.42
771.50	771.55	772.06	772.09	772.15	772.20	772.25	772.40	772.42	772.45
772.51	772.54	772.60	772.65	772.70	772.80	772.85	772.95	773.05	773.15
773.25	773.30	773.35	774.20	774.25	774.35	774.40	790.00	790.03	790.07
790.10	790.15	790.23	790.25	790.30	790.37	790.40	790.45	790.47	790.50
790.55	790.59	790.61	790.62	790.63	791.05	791.10	791.15	791.19	791.30
791.35	791.45	791.48	791.50	791.54	791.57	791.60	791.65	791.70	791.90
792.10	792.30	792.32	792.40	792.70	799.00	799.90			

ANNEX III
TSUS Item Number

106.60	107.20	107.45	107.48	107.70	111.92	121.52	121.55	130.35	130.40
130.63	131.35	132.55	135.30	135.51	135.80	135.90	136.00	136.80	136.98
136.99	137.71	137.75	138.05	140.09	140.10	140.14	140.20	140.21	140.25
140.35	141.35	141.55	141.70	141.77	145.09	145.52	145.53	145.60	146.12
146.22	146.44	147.33	147.36	147.80	147.85	148.72	148.77	149.15	149.50
152.43	152.54	152.72	153.02	153.28	154.40	155.20	155.35	156.35	156.45
161.15	161.53	161.69	166.40	168.15	176.15	176.33	184.65	186.40	192.85
200.91	202.62	203.20	206.47	206.60	206.98	220.10	220.15	220.20	220.25
220.35	220.37	220.41	220.48	220.50	222.10	222.34	222.62	240.02	240.10
240.12	240.38	256.60	256.80	256.85	274.00	304.04	304.40	304.48	304.58
305.20	305.22	305.28	305.30	305.40	306.52	308.30	316.50	319.01	319.03
319.05	319.07	335.50	347.30	355.04	360.35	360.82	370.17	407.08	407.12
408.40	417.90	418.78	418.80	420.82	422.76	425.00	425.84	425.86	426.46
437.16	437.64	460.35	460.60	461.05	461.15	465.70	473.46	473.48	473.52
473.56	473.58	473.62	473.66	490.44	493.21	493.82	494.40	511.31	511.51
512.44	513.84	514.11	514.54	516.11	516.24	516.71	516.73	516.74	516.76
516.94	517.24	518.41	520.35	520.51	533.26	535.31	540.21	540.47	544.11
545.31	545.53	545.65	546.23	603.45	603.50	605.66	610.71	612.02	612.03
612.06	612.15	612.70	612.72	620.08	622.20	622.35	624.02	624.42	624.50
626.42	628.05	628.10	628.40	640.10	642.06	646.04	646.86	646.98	649.39
649.71	650.79	650.83	650.87	651.03	651.49	652.50	652.84	653.02	653.03
653.47	653.49	653.85	653.93	656.20	657.90	660.44	672.10	674.56	676.52
678.50	683.70	683.80	684.50	685.24	685.28	685.90	686.30	687.30	688.10
688.12	688.40	692.27	696.35	700.54	702.08	702.20	702.45	703.65	703.75
704.34	706.40	711.30	713.07	713.15	713.19	724.35	726.70	730.27	730.29
730.41	731.10	734.10	734.25	734.30	734.34	734.51	734.54	734.56	734.87
735.11	737.40	737.80	737.95	740.10	740.30	741.20	745.08	748.12	748.40
750.25	750.35	750.65	751.05	751.20	755.30	760.65	771.05	771.45	772.03
772.35	772.97	773.10	773.20	774.60	790.39	790.60	790.70	791.17	791.20
791.25	791.76	791.80	792.22	792.50	792.60	792.75			

TITLE 20—EDUCATION

Chap. Sec.
46. Career Education Incentive [New] 2601

CHAPTER 2—TEACHING OF AGRICULTURAL, TRADE, HOME ECONOMICS, AND INDUSTRIAL SUBJECTS

§ 11. Annual appropriations

APPROPRIATIONS UNDER VOCATIONAL EDUCATION ACT OF 1963

Pub. L. 90-576, title I, Oct. 16, 1968, 82 Stat. 1091, as amended by Pub. L. 91-230, title VII, § 709, Apr. 13, 1970, 84 Stat. 189; Pub. L. 94-482, title II, § 203(c)(1), as added Pub. L. 95-40, § 1(29), June 3, 1977, 91 Stat. 207, provided that: "Funds appropriated by the first section of the Smith-Hughes Act (that is the Act approved February 23, 1917, 39 Stat. 929, as amended (20 U.S.C. 11-15, 16-28)), shall be considered as funds appropriated pursuant to section 102(a) of the Vocational Education Act of 1963 (as such Act will be in effect on October 1, 1977) [section 2302(a) of this title]."

Pub. L. 94-482, title II, § 203(c)(2), as added by Pub. L. 95-40, § 1(29), June 3, 1977, 91 Stat. 207, provided that: "The amendments made by this section [amending this note and sections 817, 952, and 953 of Title 29, Labor] shall be effective on and after October 1, 1977."

CHAPTER 3—SMITHSONIAN INSTITUTION, NATIONAL MUSEUMS AND ART GALLERIES

§ 76h. Bureau, board of trustees, and advisory committee

(a) Establishment of bureau; direction by board of trustees; composition of board

There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in this subchapter, referred to as the "Board"), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof and to execute such other functions as are vested in the Board by this subchapter. The Board shall be composed as follows: The Secretary of Health, Education, and Welfare, the Librarian of Congress, the Director of the International Communication Agency, the Chairman of the Commission of Fine Arts, the Mayor of the District of Columbia, the Chairman of the District of Columbia Recreation Board, the Director of the National Park Service, the Commissioner of the United States Office of Education, the Secretary of the Smithsonian Institution, three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

[*See main edition for text of* (b), (c)]

(As amended 1977 Reorg. Plan No. 2, § 7(b), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Assistant Secretary of State for Public Affairs" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, § 7(b), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Assistant Secretary of State for Public Affairs under subsec. (a) of this section to the Director of the International Communication Agency.

§ 76l. Official seal, Board vacancies and quorum, trustee powers and obligations, reports, support services, and review and audit

[*See main edition for text of* (a) *to* (d)]

(e) Maintenance, security, information, and other services; authorization of appropriations

The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts." There is authorized to be appropriated to carry out this subsection not to exceed $2,800,000 for the fiscal year ending June 30, 1976, $741,000 for the transition period ending September 30, 1976, $3,100,000 for the fiscal year ending September 30, 1977, and $4,000,000 for the fiscal year ending September 30, 1978.

[*See main edition for text of* (f)]

(As amended Pub. L. 95-50, § 2, June 20, 1977, 91 Stat. 232.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-50 authorized an appropriation of $4,000,000 for the fiscal year ending Sept. 30, 1978, and struck out provisions that had authorized appropriations of $4,000,000 for the fiscal year ending Sept. 30, 1978, and not to exceed $4,300,000 for the fiscal year ending Sept. 30, 1979.

§ 76n. Authorization of appropriations; matching amounts and limitation; maintenance and operation of nonperforming arts functions; repair, renovation, and reconstruction

(a) There is authorized to be appropriated to the Board for use in accordance with this subchapter, amounts which in the aggregate will equal gifts, bequests, and devises of money, securities, and other property, held by the Board under this subchapter, except that not to exceed $23,000,000 shall be appropriated pursuant to this subsection.

[*See main edition for text of* (b)]

(c) There are authorized to be appropriated to the Secretary of the Interior, acting through the National Park Service, not to exceed $4,700,000 for repair, renovation, and reconstruction of the John F. Kennedy Center for the Performing Arts necessary to correct water leaks in the roof, the terraces, the kitchen, and the East Plaza Drive and to correct any damage which has resulted from those leaks. No contract shall be entered into for any property or services necessary to carry out this subsection unless such contract has been approved by the Board, and no final payment for such property or services shall be made under any such contract unless such payment has been approved by the Board. No part of the funds authorized by this subsection shall be expended under any cost-plus-a-percentage-of-cost, cost-plus-a-fixed-fee, or similar incentive-type contract. Funds authorized by this subsection shall be expended under a contract only after advertising and competitive bidding for the property or services to be provided by such contract.

(As amended Pub. L. 95-50, § 1, June 20, 1977, 91 Stat. 232.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-50, § 1(b), substituted "appropriated pursuant to this subsection" for "appropriated pursuant to this section".

Subsec. (c). Pub. L. 95-50, § 1(a), added subsec. (c).

§ 80f. Woodrow Wilson International Center for Scholars; Board of Trustees of the Center

[*See main edition for text of* (a)]

(b) Composition of Board

The Board of Trustees shall be composed of fifteen members as follows:

(1) the Director of the International Communication Agency;

[*See main edition for text of* (2) *to* (8) *and* (c) *to* (e)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(14), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (b)(1) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(14), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State under subsec. (b)(1) of this section to the Director of the International Communication Agency.

CHAPTER 13—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

§ 241. Education of children where local agencies cannot supply facilities

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Repeated by Pub. L. 95-85, title III, § 310, Aug. 2, 1977, 91 Stat. 416.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

§ 241b. Payments to State educational agencies; duration

During the period beginning July 1, 1973, and ending September 30, 1979, the Commissioner shall, in accordance with the provisions of this subchapter, make payments to State educational agencies for grants made on the basis of entitlements created under this subchapter.

(As amended Sept. 24, 1977, Pub. L. 95-112, § 2(a)(1), 91 Stat. 911.)

AMENDMENTS

1977—Pub. L. 95-112 substituted "September 30, 1979" for "September 30, 1978".

§ 241c-5. Minimum payments for State operated programs

No State shall receive in any fiscal year prior to October 1, 1979, pursuant to sections 241c-1, 241c-2, or 241c-3 of this title, an amount which is less than 100 per centum of the amount which that State received in the prior fiscal year pursuant to such sections 241c-1, 241c-2, or 241c-3 of this title, respectively.

(As amended Sept. 24, 1977, Pub. L. 95-112, § 2(a)(2), 91 Stat. 911.)

AMENDMENTS

1977—Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

§ 241*l*. National Advisory council on the Education of Disadvantaged Children

[*See main edition for text of* (a) *and* (b)]

(c) Annual report to President and Congress; termination of National Council

The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this subchapter) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education

programs funded in whole or in part under the provisions of this subchapter, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 1233g(b) of this title, the National Council shall continue to exist until October 1, 1979.

(As amended Sept. 24, 1977, Pub. L. 95-112, § 2(a)(3), 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

SUBCHAPTER IV—GENERAL

§ 243. Utilization of services and facilities of other Federal agencies

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 16—PUBLIC LIBRARY SERVICES AND CONSTRUCTION

Sec.
351f. Administrative costs [New].

§ 351. Declaration of policy

(a) It is the purpose of this chapter to assist the States in the extension and improvement of public library services in areas of the States which are without such services or in which such services are inadequate, and with public library construction, and in the improvement of such other State library services as library services for physically handicapped, institutionalized, and disadvantaged persons, in strengthening State library administrative agencies, in promoting interlibrary cooperation among all types of libraries, and in strengthening major urban resource libraries.

[*See main edition for text of* (b)]

(As amended Oct. 7, 1977, Pub. L. 95-123, § 4(a), 91 Stat. 1095.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-123 inserted "and in strengthening major urban resource libraries" following "all types of libraries".

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-123 provided: "That this Act [which enacted section 351f of this title and amended sections 351 to 351b, 352 to 354, and 355b of this title] may be cited as the 'Library Services and Construction Act Amendments of 1977'."

§ 351a. Definitions

The following definitions shall apply to this chapter:

[*See main edition for text of* (1) *to* (13)]

(14) "Major urban resource library" means any public library located in a city having a population of 100,000 or more individuals, as determined by the Commissioner.

(As amended Oct. 7, 1977, Pub. L. 95-123, § 4(b), 91 Stat. 1095.)

AMENDMENTS

1977—Par. (14). Pub. L. 95-123 added par. (14).

§ 351b. Authorization of appropriations; availability of appropriations

(a) For the purpose of carrying out the provisions of this chapter the following sums are authorized to be appropriated:

(1) For the purpose of making grants to States for library services as provided in subchapter I of this chapter, there are authorized to be appropriated $112,000,000 for the fiscal year ending June 30, 1972, $117,600,000 for the fiscal year ending June 30, 1973, $123,500,000 for the fiscal year ending June 30, 1974, $129,675,000 for the fiscal year ending June 30, 1975, $137,150,000 for the fiscal year ending June 30, 1976, $110,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $150,000,000 for fiscal year 1980 and each of the two succeeding fiscal years.

(2) For the purpose of making grants to States for public library construction, as provided in subchapter II of this chapter, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1972, $84,000,000 for the fiscal year ending June 30, 1973, $88,000,000 for the fiscal year ending June 30, 1974, $92,500,000 for the fiscal year ending June 30, 1975, $97,000,000 for the fiscal year ending June 30, 1976, and such sums as may be necessary for fiscal year 1978 through fiscal year 1981, and $97,000,000 for fiscal year 1982.

(3) For the purpose of making grants to States to enable them to carry out interlibrary cooperation programs authorized by subchapter III of this chapter, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972, $15,750,000 for the fiscal year ending June 30, 1973, $16,500,000 for the fiscal year ending June 30, 1974, $17,300,000 for the fiscal year ending June 30, 1975, $18,200,000 for the fiscal year ending June 30, 1976, $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979 and each of the three succeeding fiscal years.

(4) For the purpose of making grants to States to enable them to carry out public library service programs for older persons authorized by subchapter IV of this chapter, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1982.

[*See main edition for text of* (b)]

(As amended Oct. 7, 1977, Pub. L. 95-123, § 2, 91 Stat. 1095.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-123, § 2(a), added provisions authorizing appropriations of $110,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $150,000,000 for fiscal year 1980 and each of the two succeeding fiscal years.

Subsec. (a)(2). Pub. L. 95-123, § 2(b), added provisions authorizing appropriations of such sums as may be necessary for fiscal year 1978 through fiscal year 1981, and $97,000,000 for fiscal year 1982.

Subsec. (a)(3). Pub. L. 95-123, § 2(c), added provisions authorizing appropriations of $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979 and each of the three succeeding fiscal years.

Subsec. (a)(4). Pub. L. 95-123, § 2(d), substituted "for each fiscal year ending prior to October 1, 1982" for "for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, and the fiscal year ending June 30, 1976".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351c, 351e, 352, 353, 354, 355b, 355c, 355e-1, 355e-2, 362, 363 of this title.

§ 351f. Administrative costs

The amount expended by any State, from an allotment received under this chapter for any fiscal year, for administrative costs in connection with any program or activity carried out by such State under this chapter shall be matched by such State from funds other than Federal funds.

(June 19, 1956, ch. 407, § 8, as added Oct. 7, 1977, Pub. L. 95-123, § 3(a), 91 Stat. 1095.)

SUBCHAPTER I—LIBRARY SERVICES

§ 352. Grants to States for public library services

The Commissioner shall carry out a program of making grants from sums appropriated pursuant to section 351b(a)(1) of this title to States which have had approved basic State plans under section 351d of this title and have submitted annual programs under section 354 of this title for the extension of public library services to areas without such services and the improvement of such services in areas in which such services are inadequate, for making library services more accessible to persons who, by reason of distance, residence, or physical handicap, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the public, for adapting public library services to meet particular needs of persons within the States, for improving and strengthening library administrative agencies, and in strengthening major urban resource libraries.

(As amended Oct. 7, 1977, Pub. L. 95-123, § 4(c), 91 Stat. 1096.)

AMENDMENTS

1977—Pub. L. 95-123 inserted "and in strengthening major urban resource libraries" following "library administrative agencies".

§ 353. Uses of Federal funds

(a) Development of programs and projects to extend library services to physically handicapped, disadvantaged areas, etc.; expanding services of major urban resource libraries; limitation on grants

Funds appropriated pursuant to paragraph (1) of section 351b(a) of this title shall be available for grants to States from allotments under section 351c(a) of this title for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 351d and 354 of this title. Except as is provided in subsection (b) of this section, grants to States under this subchapter may be used solely—

(1) for planning for, and taking other steps leading to the development of, programs and projects designed to extend and improve library services, as provided in clause (2);

(2) for (A) extending public library services to geographical areas and groups of persons without such services and improving such services in such areas and for such groups as may have inadequate public library services; and (B) establishing, expanding, and operating programs and projects to provide (i) State institutional library services, (ii) library services to the physically handicapped, and (iii) library services for the disadvantaged in urban and rural areas; and (C) strengthening metropolitan public libraries which serve as national or regional resource centers; and

(3) for supporting and expanding library services of major urban resource libraries which, because of the value of the collections of such libraries to individual users and to other libraries, need special assistance to furnish services at a level required to meet the demands made for such services.

No grant may be made under clause (3) of this subsection unless the major urban resource library provides services to users throughout the regional area in which such library is located.

(b) Payment of costs of administering State plans, planning for and evaluation of library services, dissemination of information concerning library services, etc.; increase capacity of State library administrative agencies

Subject to such limitations and criteria as the Commissioner shall establish by regulation, grants to States under this subchapter may be used (1) to pay the cost of administering the State plans submitted and approved under this chapter (including obtaining the services of consultants), statewide planning for and evaluation of library services, dissemination of information concerning library services, and the activities of such advisory groups and panels as may be necessary to assist the State library administrative agency in carrying out its functions under this subchapter, and (2) for strengthening the capacity of State library administrative agencies for meeting the needs of the people of the States.

(c) Reservation of allotments

(1) Subject to such criteria as the Commissioner shall establish by regulation, in any fiscal year in which sums appropriated pursuant to paragraph (1) of section 351b(a) of this title exceed $60,000,000, each State which is subject to the provisions of this subsection shall reserve that portion of the allotment of each State attributable to the amount in excess of $60,000,000 in that fiscal year in the manner required in paragraph (2).

(2)(A) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Commissioner, and in which the aggregate population of such cities does not exceed 50 percent of the total population of the State, the portion of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) of this section in accordance with clause (2) of section 354 of this title in an amount which bears the same ratio to the total of such excess amount as the aggregate population of such cities bears to the total population of such State.

(B) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Commissioner, and in which the aggregate population of such cities exceeds 50 percent of the total population of the State, 50 percent of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) of this section in accordance with clause (2) of section 354 of this title.

(C) Any State which does not include any city with a population of 100,000 or more individuals, as determined by the Commissioner, shall not be subject to the provisions of this subsection.

(As amended Oct. 7, 1977, Pub. L. 95-123, §§ 3(b), 4(d), (e), 91 Stat. 1095, 1096.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-123, § 4(d), added cl. (3) and material following cl. (3).

Subsec. (b). Pub. L. 95-123, § 3(b), inserted "the provisions of section 351f of this title and" following "Subject to".

Subsec. (c). Pub. L. 95-123, § 4(e), added subsec. (c).

§ 354. Annual State program for library services; submission; contents; limitation on reduction of funds

Any State desiring to receive a grant from its allotment for the purposes of this subchapter for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 351d of this title, submit for that fiscal year an annual program for library services. Such program shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation, and shall—

(1) set forth a program, subject to clause (2) of this section, for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (1) of section 351b(a) of this title for that year will be used, consistent with its long-range program, solely for the purposes set forth in section 353 of this title;

(2) set forth a program for the year submitted under which the amount reserved by the State under section 353(c) of this title, if applicable, will be used for the purposes set forth in clause (3) of section 353(a) of this title;

(3) set forth the criteria used in allocating such funds among such purposes, which criteria shall insure that the State will expend from Federal, State, and local sources an amount not less than the amount expended by the State from such sources for State institutional library services, and library services to the physically handicapped during the second fiscal year preceding the fiscal year for which the determination is made;

(4) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program; and

(5) include an extension of the long-range program, taking into consideration the results of evaluations.

No State shall, in carrying out the provisions of clause (2) of this section, reduce the amount paid to an urban resource library below the amount that such library received in the year preceding the year for which the determination is made under such clause (2).

(As amended Oct. 7, 1977, Pub. L. 95-123, §§ 4(f), 5, 91 Stat. 1096, 1097.)

AMENDMENTS

1977—Pub. L. 95-123 in cl. (1) inserted ", subject to clause (2) of this section," following "set forth a program", added cl. (2), redesignated former cl. (2) as (3) and, as so redesignated, substituted "the second fiscal year preceding the fiscal year for which the determination is made" for "the fiscal year ending June 30, 1971", redesignated former cls. (3) and (4) as (4) and (5), and added material following cl. (5).

SUBCHAPTER II—PUBLIC LIBRARY CONSTRUCTION

§ 355b. Payment of Federal share; uses of Federal funds

Funds appropriated pursuant to paragraph (2) of section 351b(a) of this title shall be available for grants to States from allotments under section 351c(a) of this title for the purpose of paying the Federal share of the cost of construction projects carried under State plans. Such grants shall be used solely for the construction of public libraries, for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.], and for remodeling designed to conserve energy in the operation of public libraries under approved State plans.

(As amended Oct. 7, 1977, Pub. L. 95-123, § 6, 91 Stat. 1097.)

REFERENCES IN TEXT

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in text,

is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-123 inserted ", for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, and for remodeling designed to conserve energy in the operation of public libraries" following "construction of public libraries".

CHAPTER 17—NATIONAL DEFENSE EDUCATION PROGRAM

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

§ 424. Conditions of agreements; payment of administrative expenses

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403 of this title; title 42 sections 294, 295h-3d, 297a.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

§ 441. Authorization of appropriations

There are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, $90,000,000 for the fiscal year ending June 30, 1965, $100,000,000 for the fiscal year ending June 30, 1966, and for the succeeding fiscal year, $110,000,000 for each of the fiscal years ending June 30, 1968, and June 30, 1969, $120,500,000 for the fiscal year ending June 30, 1970, and $130,500,000 for each of the fiscal years ending prior to September 30, 1979, for (1) making payments to State educational agencies under this part for the acquisition of equipment and for minor remodeling, described in paragraph (1) of section 443(a) of this title, and (2) making loans authorized in section 445 of this title. There are also authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, and $10,000,000 for each of the succeeding fiscal years ending prior to October 1, 1978, for making payments to State educational agencies under this part to carry out the programs described in paragraph (5) of section 443(a) of this title. Notwithstanding the preceding two sentences, no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part B of title IV of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 1821].

(As amended Pub. L. 95-112, § 4, Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Pub. L. 95-112 substituted "September 30, 1979" for "September 30, 1978".

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

§ 513. Authorization of appropriations

There are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1964, $13,000,000 for the fiscal year ending June 30, 1965, $14,000,000 for the fiscal year ending June 30, 1966, $16,000,000 for the fiscal year ending June 30, 1967, $18,000,000 for the fiscal year ending June 30, 1968, $16,050,000 for the fiscal year ending June 30, 1969, $30,000,000 for the fiscal year ending June 30, 1970, $38,500,000 for each of the fiscal years ending June 30, 1971, and June 30, 1972, $50,000,000 for the fiscal year ending June 30, 1973, and $75,000,000 for each fiscal year ending prior to October 1, 1979, to carry out the provisions of this subchapter, except that no funds shall be made available in any fiscal year for carrying out programs under section 512a of this title, until at least $15,000,000 has been made available in such fiscal year for carrying out the provisions of sections 511 and 512 of this title.

(As amended Pub. L. 95-43, § 1(c), June 15, 1977, 91 Stat. 219.)

AMENDMENTS

1977—Pub. L. 95-43 extended authorizations to each fiscal year ending prior to Oct. 1, 1979, from the fiscal year ending prior to Oct. 1, 1977.

CHAPTER 19—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§ 643. Information to Commissioner; transfer and availability of appropriations

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 24—GRANTS FOR EDUCATIONAL MATERIALS, FACILITIES AND SERVICES, AND STRENGTHENING OF EDUCATIONAL AGENCIES

SUBCHAPTER I—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§ 821. Authorization of appropriations

[*See main edition for text of* (*a*)]

(b) For the purpose of making grants under this subchapter, there are authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1966, $125,000,000 for the fiscal year ending June 30, 1967, $150,000,000 for the fiscal year ending June 30, 1968, $162,500,000 for the fiscal year ending June 30, 1969, $200,000,000 for each of the fiscal years ending June 30, 1970, and June 30,

1971, $210,000,000 for the fiscal year ending June 30, 1972, and $220,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part B of subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(b)(1), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "for each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years".

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-112 provided: "That this Act [which amended sections 241b, 241c-5, 241*l*, 441, 821, 824, 841, 844a, 847a, 861, 866, 867, 868, 887, 887a, 887d, 1208a, 1209, 1211, 1211a, 1225, and 1801 of this title] may be cited as the 'Education Amendments of 1977'."

§ 824. Payment to States

[*See main edition for text of* (*a*)]

(b) In any State which has a State plan approved under section 823(b) of this title and in which no State agency is authorized by law to provide library resources, textbooks, or other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary schools in such State, the Commissioner shall arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for such use and shall pay the cost thereof for any fiscal year ending prior to October 1, 1979, out of that State's allotment.

(As amended Pub. L. 95-112, § 2(b)(2), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "July 1, 1978".

SUBCHAPTER II—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

§ 841. Authorization of appropriations

[*See main edition for text of* (*a*)]

(b) For the purpose of making grants under this subchapter, there is authorized to be appropriated the sum of $550,000,000 for the fiscal year ending June 30, 1971, $575,000,000 for the fiscal year ending June 30, 1972, and $605,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of subchapter I of chapter 40 of this title. In addition, there are authorized to be appropriated for the fiscal year ending June 30, 1971, and for each succeeding fiscal year ending prior to October 1, 1979, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this subchapter, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available, for obligation by the Commissioner for carrying out part C of subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(c)(1), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "for each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years" and for "each of the succeeding fiscal years".

§ 844a. State plans

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Partial approval of plan; modification of unapproved portion

The Commissioner may, if he finds that a State plan for any fiscal year ending prior to October 1, 1979, is in substantial compliance with the requirements set forth in subsection (b) of this section, approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 845 of this title) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: *Provided*, That the amount made available to a State pursuant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

[*See main edition for text of* (*d*) *to* (*f*)]

(As amended Pub. L. 95-112, § 2(c)(2), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

§ 847a. National Advisory Council on Supplementary Centers and Services

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Annual report to President and Congress; termination of National Council

The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this subchapter) to the President and the Congress not later than January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 1233g(b) of this title,

the Council shall continue to exist until October 1, 1979, except that the Council shall not exist during any year for which funds are available for obligation by the Commissioner for carrying out subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(c)(3), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

SUBCHAPTER III—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

§ 861. Authorization of appropriations

[*See main edition for text of* (a)]

(b) For the purpose of making grants under this part, there is authorized to be appropriated the sum of $25,000,000 for the fiscal year ending June 30, 1966, $30,000,000 for the fiscal year ending June 30, 1967, $65,000,000 for the fiscal year ending June 30, 1968, and $80,000,000 each for the fiscal years ending June 30, 1969, and June 30, 1970, and June 30, 1971, $85,000,000 for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973 and each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(e)(1), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years".

§ 866. Authorization of appropriations

[*See main edition for text of* (a)]

(b) For the purpose of making grants under this part, there is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(e)(2), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years".

§ 867. Authorization of appropriations; apportionment among States

[*See main edition for text of* (a)]

(b) For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of subchapter I of chapter 40 of this title.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-112, § 2(e)(3), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years".

§ 868. National Council and State advisory councils

[*See main edition for text of* (a) *and* (b)]

(c) Termination of National Council; authorization of appropriations

(1) Notwithstanding any other provision of law the National Council established by subsection (a) of this section shall continue to exist until October 1, 1979.

(2) Notwithstanding the provisions of section 1801(b) of this title there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a) of this section.

(As amended Pub. L. 95-112, § 2(e)(4), Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-112 added subsec. (c).

SUBCHAPTER V—GENERAL PROVISIONS

§ 881. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1202, 1232e, 1720, 1966, 2614 of this title; title 29 sections 892a, 981.

§ 887. Dropout prevention projects

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations

For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $31,500,000 for the fiscal year ending June 30, 1972, and $33,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(f)(1), Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-112 substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years".

§ 887a. School nutrition and health services for children from low-income families

[*See main edition for text of* (a) *to* (c)]

(d) Authorization of appropriations

For the purpose of making grants under this section there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $26,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, 1979, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of subchapter I of chapter 40 of this title.

(As amended Pub. L. 95-112, § 2(f)(2), Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-112 substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the five succeeding fiscal years".

§ 887d. Consumers' education programs

[*See main edition for text of* (a) *to* (c)]

(d) Limitation on fiscal year expenditures

For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to October 1, 1979.

(As amended Pub. L. 95-112, § 2(f)(3), Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-112 substituted "October 1, 1979" for "July 1, 1978".

EX. ORD. NO. 11583. OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11583, Feb. 24, 1971, 36 F.R. 3509, as amended by Ex. Ord. No. 11595, May 26, 1971, 36 F.R. 9763; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

* * * * *

SEC. 5. [Revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

* * * * *

CONSUMER ADVISORY COUNCIL

For provisions relating to termination of, see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, set out as a note under section 14 in Appendix to Title 5, Government Organization and Employees.

CHAPTER 26—SUPPORT AND SCHOLARSHIP IN HUMANITIES AND ARTS; MUSEUM SERVICES

§ 958. Federal Council on the Arts and the Humanities

[*See main edition for text of* (a)]

(b) Composition; Chairman, designation by President; changes in membership to meet changes in programs or executive branch organization

The Council shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the United States Commissioner of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, a member designated by the Director of the International Communication Agency and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the Chairman of the Council from among the members. The President is authorized to change the membership of the Council from time to time as he deems necessary to meet changes in Federal programs or executive branch organization.

[*See main edition for text of* (c)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(12), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (b) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(12), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State under subsec. (b) of this section to the Director of the International Communication Agency.

CHAPTER 26A—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS

§ 972. Items eligible for indemnity agreements

(a) The Council may make an indemnity agreement under this chapter with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Director of the International Communication Agency or his designee as being in the national interest.

[*See main edition for text of* (b)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(10), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(10), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State in subsec. (a) of this section to the Director of the International Communication Agency.

CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 1704; title 25 section 13; title 26 section 103; title 38 section 246; title 42 section 2752.

SUBCHAPTER I—COMMUNITY SERVICE, CONTINUING EDUCATION, AND LIFE-LONG LEARNING PROGRAM GRANTS

§ 1003. Allotments to States

(a) Amount

From the sums appropriated pursuant to section 1001(a) of this title for any fiscal year which are not reserved under section 1005a(a) of this title, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States, except that, for any fiscal year beginning on or after October 1, 1976, no State shall be allotted from such sums less than the amount which such State received during the fiscal year beginning July 1, 1974.

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95-43, § 1(a)(1), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43 substituted "July 1, 1974" for "July 1, 1975".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1004. Uses of allotments

A State's allotment under section 1003 of this title may be used, in accordance with its State plan approved under section 1005(b) of this title, to provide new, expanded, or improved community service and continuing education programs, including resource material sharing programs.

(As amended Pub. L. 95-43, § 1(a)(2), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Pub. L. 95-43, correcting an error in Pub. L. 94-482, struck out a comma appearing following "material sharing programs", which had been editorially deleted in the 1976 Edition.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1005. State plans

(a) Submission to Commissioner through designated State agencies, etc.; required provisions

Any State desiring to receive its allotment of funds under this part for use in community service and continuing education programs, including resource material sharing programs, shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service and continuing education programs, including resource material sharing programs, and shall submit to the Commissioner a State plan. If a State desires to designate for the purpose of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this part shall—

[*See main edition for text of (1)*]

(2) set forth a comprehensive, coordinated, and statewise system of community service and continuing education programs, including resource materials sharing programs, under which funds paid to the State (including funds paid to an institution pursuant to section 1006(c) of this title) under its allotments under section 1003 of this title will be expended solely for community service and continuing education programs, including resource materials sharing programs, which have been approved by the agency or institution administering the plan (except that if a comprehensive, coordinated, and statewide system of community service and continuing education programs, including resource materials sharing programs, cannot be effectively carried out by reason of insufficient funds, the plan may set forth one or more proposals for community service and continuing education programs, including resource materials sharing programs, in lieu of a comprehensive, coordinated, and statewide system of such programs);

(3) set forth the policies and procedures to be followed in allocating Federal funds to institutions of higher education and combinations thereof in the State, which policies and procedures shall insure that due consideration will be given—

(A) to the relative capacity and willingness of particular institutions of higher education and combinations thereof (whether public or private) to provide effective community service and continuing education programs, including resource materials sharing programs;

(B) to the availability of and need for community service and continuing education programs, including resource materials sharing programs, among the population within the State; and

(C) to the results of periodic evaluations of the programs carried out under this part;

[*See main edition for text of* (4) *and* (5)]

(6) provide assurances that all institutions of higher education in the State have been given the opportunity to participate in the development of the State plan.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-43, § 1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-43, § 1(b)(1), struck out "or combination" following "an institution".

Subsec. (a)(3). Pub. L. 95-43, § 1(b)(2), corrected an error in section 101(b)(6)(A) of Pub. L. 94-482, which amended this paragraph in 1976, without affecting the prior amendment.

Subsec. (a)(6). Pub. L. 95-43, § 1(a)(3), inserted introductory word "provide".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1009. National Advisory Council on Extension and Continuing Education

(a) Appointment; composition; meetings

The President shall, within ninety days of November 8, 1965, appoint a National Advisory Council on Extension and Continuing Education (hereafter referred to as the "Advisory Council"), consisting of one representative each of the Departments of Agriculture, Commerce, Defense, Labor, Interior, and Housing and Urban Development, and the International Communication Agency and the Community Services Administration, and of such other Federal agencies having extension education responsibilities as the President may designate, and twelve members appointed, for staggered terms and without regard to the civil service laws, by the President. Such twelve members shall, to the extent possible, include persons knowledgeable in the fields of extension and continuing education, State and local officials, and other persons having special knowledge, experience, or qualification with respect to community problems, and persons representative of the general public. The Advisory Council shall meet at the call of the Chairman but not less often than twice a year.

[*See main edition for text of* (b) *to* (f)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(13), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the Department of State under subsec. (a) of this section were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(13), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President. Section 5 of Reorg. Plan No. 2 of 1977 authorized the Director of the International Communication Agency to delegate the performance of any such transferred function to any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "Department of State" in subsec. (a) of this section.

§ 1015b. Implementation of program by Assistant Secretary

(a) Planning, assessment and coordination activities

The Assistant Secretary shall carry out, from funds appropriated pursuant to section 1001(b) of this title, a program of planning, assessing, and coordinating projects related to lifelong learning. In carrying out the provisions of this section, the Assistant Secretary shall—

[*See main edition for text of* (1) *to* (6)]

(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division (including the Office of Education, the National Institute of Education, the Fund for the Improvement of Postsecondary Education, and the National Center for Education Statistics), other agencies of the Federal Government, public advisory groups (including the National Advisory Councils on Extension and Continuing Education, Adult Education, Career Education, Community Education, and Vocational Education), Commissions (including the National Commission on Libraries and Information Sciences and the National Commission on Manpower Policy), State agencies, and such other persons or organizations as may be appropriate, in carrying out the Assistant Secretary's responsibilities, and make maximum use of information and studies already available.

The review required by clause (3) of this subsection shall include—

[*See main edition for text of* (i) *to* (v); (b) *to* (e)]

(As amended Pub. L. 95-43, § 1(a)(4), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Subsec. (a)(7). Pub. L. 95-43 substituted "Assistant Secretary's" for "Commissioner's".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SUBCHAPTER IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

§ 1070a. Basic educational opportunity grants: amount and determinations; applications

[*See main edition for text of* (*a*)]

(b) Payments; insufficient available funds, entitlements; excess funds

[*See main edition for text of* (*1*) *and* (*2*)]

(3) [*See main edition for text of* (*A*)]

(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements under this subpart, the amount paid with respect to each such entitlement shall be—

[*See main edition for text of* (*I*) *to* (*IV*)]

(ii) If, during any fiscal year, funds available for making payments under this subpart exceed the amount necessary to make the payments prescribed in division (i), such excess shall be paid with respect to each entitlement under this subpart in proportion to the degree to which that entitlement is unsatisfied.

(iii) In the event that, at the time when payments are to be made pursuant to this subparagraph (B), funds available therefor are insufficient to pay the amounts set forth in division (i), the Commissioner shall pay with respect to each entitlement an amount which bears the same ratio to the appropriate amount set forth in division (i) as the total amount of funds so available at such time for such payments bears to the amount necessary to pay the amounts indicated in division (i) in full.

(iv) No method of computing or manner of distribution of payments under this subpart shall be used which is not consistent with this subparagraph.

(v) In no case shall a payment under this subparagraph be made if the amount of such payment after application of the provisions of this subparagraph is less than $50.

(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

[*See main edition for text of* (*5*); (*c*) *to* (*e*)]

(As amended Pub. L. 95-43, § 1(a)(5), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Subsec. (b)(3)(B). Pub. L. 95-43, § 1(a)(5)(A), added subd. (ii) and redesignated former subds. (ii) to (iv) as subds. (iii) to (v).

Subsec. (b)(4). Pub. L. 95-43, § 1(a)(5)(B), inserted in subpars. (A) and (B) ", at the end of a fiscal year," following "If".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1070, 1070a, 1070e, 1088b, 1088b-3, 1145c of this title.

SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

§ 1070c. Purpose; authorization of appropriations; initial awards

CODIFICATION

Pub. L. 95-43, § 1(b)(3), June 15, 1977, 91 Stat. 218, corrected an error in the directory language of section 123(a) of Pub. L. 94-482, which amended this section in 1976, without affecting the amendment made thereby.

AMENDMENTS

1976—Subsec. (b)(3). Pub. L. 94-482, § 123(a), included reference to appropriations under par. (2).

§ 1070c-2. Payment of grants

[*See main edition for text of* (*a*)]

(b) Terms and conditions

From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student grants pursuant to a State program which—

[*See main edition for text of* (*1*) *to* (*3*)]

(4) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program;

[*See main edition for text of* (*5*) *and* (*6*); (*c*)]

(As amended Pub. L. 95-43, § 1(a)(6), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Subsec. (b)(4). Pub. L. 95-43 substituted "October 1, 1978" for "July 1, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1070c-4. Bonus allotments for programs

Whenever the sum appropriated pursuant to this subpart for any fiscal year is in excess of $75,000,000 the Commissioner shall allot, from 33⅓ per centum of such excess sums, to each State operating through an agency of the State or through a nonprofit private institution or organization designated by a State, a program under section 1078(b) of this title an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of students in such attendance in all such States.

(As amended Pub. L. 95-43, § 1(a)(7), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Pub. L. 95-43 substituted "operating, through an agency of the State or through a nonprofit private institution or organization designated by a State, a program under section 1078(b) of this title" for "having an agreement under section 1078(b) of this title".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SUBPART 6—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

§ 1070e. Payments to institutions of higher education

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070e-1 of this title; title 38 section 246.

§ 1070e-1. Veterans' cost-of-instruction payments to institutions of higher education; waiver

ADMINISTRATION OF VETERANS' COST-OF-INSTRUCTION PROGRAM; TRANSFER FROM COMMISSIONER OF EDUCATION TO ADMINISTRATOR OF VETERANS' AFFAIRS

For provisions authorizing the transfer of the programs carried out under this section from the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, over to the Administrator of Veterans' Affairs, the transfer of funds in connection with the transfer, and the supersedure of this section as of the date of the transfer, see section 310(a) and (b) of Pub. L. 95-202, set out as notes under section 246 of Title 38, Veterans' Affairs.

PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

§ 1071. General provisions

(a) Statement of purpose

The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 1085 of this title), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 1078(b) of this title, (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 1078(a)(1)(B) of this title, or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(C) of this title, and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(C) of this title.

(b) Authorization of appropriations

For the purpose of carrying out this part—

[*See main edition for text of (1) and (2)*]

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 1072 of this title for the reserve funds of State and nonprofit private student loan insurance programs,

[*See main edition for text of (4) and (5)*]

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 1072 of this title until the close of the fiscal year ending June 30, 1968.

(c) Implementation requirements

For purposes of carrying out this part—

(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of student loan insurance program by each State (whether operated by an agency of the State or by a nonprofit private institution or organization designated by the state) which does not have such a program covered by an agreement pursuant to section 1078(b) of this title;

[*See main edition for text of (2) and (3)*]

(As amended Pub. L. 95-43, § 1(a)(8)-(10), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(8), substituted in cl. (3) reference to "section 1078(a)(1)(C) of this title" for "section 1078(c)(1)(A) of this title".

Subsec. (b)(3). Pub. L. 95-43, § 1(a)(9), correcting an error in Pub. L. 94-482, substituted a comma for the period appearing at the end of the text.

Subsec. (c)(1). Pub. L. 95-43, § 1(a)(10), inserted following "by each State" the parenthetical text "(whether operated by an agency of the State or by a nonprofit private institution or organization designated by the State)".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2 of Pub. L. 95-43 provided that:

"(a) Except as provided in subsection (b), the amendments made by the first section of this Act [to sections 1003 to 1005, 1015b, 1070a, 1070c-2, 1070c-4, 1087dd, 1088b, 1088f-1, 1119a-1, 1132d-11, and 1132e of this title] shall take effect October 12, 1976.

"(b)(1) Except as provided in paragraph (2), amendments made by the first section of this Act to part B

of title IV of the Higher Education Act of 1965 [this part] shall take effect as provided by subsection (b) of section 127 of the Education Amendments of 1976, as amended by this Act [set out as an Effective Date of 1976 Amendment note below], and shall, for purposes of such subsection, collectively be deemed to be an amendment made by subsection (a) of such section [to part B].

"(2) The amendments made by paragraphs (17), (20), and (21)(D) of subsection (a) of the first section of this Act [to sections 1075(a)(1), 1078(a)(9), and 1078(b)(1)(A) of this title] shall take effect thirty days after the date of its enactment [June 15, 1977]. No determination made pursuant to section 428(a)(9) of the Higher Education Act of 1965 [section 1078(a)(9) of this title] as in effect between September 30, 1976, and such thirtieth day after enactment of this Act [June 15, 1977] shall be invalid if such determination, at a minimum, complies with such section [section 1078(a)(9) of this title] as amended by such paragraph (20)."

EFFECTIVE DATE OF 1976 AMENDMENT

Section 127(b) of Pub. L. 94-482 as amended by Pub. L. 95-43, § 1(b)(4), June 25, 1977, 91 Stat. 218, provided that: "The amendment made by subsection (a) of this section of this Act [amending this part] shall become effective October 1, 1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment becomes effective, except that—

"(1) The changes made in—

"(A) sections 425(a) [section 1075(a) of this title] (other than paragraphs (1) (A) and (B) thereof) and 428(b)(1)(A) [section 1078(b)(1)(A) of this title] other than divisions (i) and (ii) thereof, and sections 427(a)(1)(C) and 428(b)(1)(B) [sections 1077(a)(1)(C) and 1078(b)(1)(B) of this title] shall become applicable with respect to loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

"(B) sections 425(a)(1)(A) and (B) and 428(b)(1)(A)(i) and (ii) [sections 1075(a)(1)(A) and (B) and 1078(b)(1)(A)(i) and (ii) of this title] shall become applicable with respect to loans made on or after February 12, 1977, to cover such costs for such periods beginning on or after November 12, 1976;

"(C) sections 427(a)(2)(G) and (H) and 428(b)(1)(N), (O), and (P) [sections 1077(a)(2)(G) and (H) and 1078(b)(1)(N), (O), and (P) of this title] shall become applicable with respect to loans made on or after June 1, 1977;

* * * * *

"(5) the new section 433 [section 1083 of this title] shall become effective with respect to loans made on or after February 12, 1977, to cover the costs of education for periods of enrollment beginning on or after November 12, 1976;

* * * * *

§ 1072. Advances to establish or strengthen reserve funds of State and nonprofit private loan insurance programs

[*See main edition for text of* (a) *and* (b)]

(c) Guaranty agreements as authorizing advances to States; determination of amount; reductions; repayment of advances; general requirements for advances

[*See main edition for text of* (1)]

(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 per centum of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a) of this section. Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

[*See main edition for text of* (C)]

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

[*See main edition for text of* (3) *and* (4)]

(5) Advances pursuant to this subsection shall be made to a State—

[*See main edition for text of* (A)]

(B) in the case of a State which enters into an agreement pursuant to section 1078(b) of this title on or after the effective date of this subsection or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

(6) [*See main edition for text of* (*A*)]

(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

[*See main edition for text of* (*i*) *and* (*ii*)]

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(As amended Pub. L. 95-43, § 1(a)(11)-(13), June 15, 1977, 91 Stat. 213, 214.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-43, § 1(a)(11)(A) to (C), in subpar. (A), struck out "the greater of (i) $50,000, or (ii)" following "equal to" and inserted following "10 per centum of the principal amount" the phrase "of loans made by lenders and"; in subpar. (B) prescribed a minimum sum of $50,000 as the amount of any advance to a State; and added subpar. (D).

Subsec. (c)(5)(B). Pub. L. 95-43, § 1(a)(12), inserted following "effective date of this subsection" text reading "or which is not actively carrying on a program under an agreement pursuant to such section on such date".

Subsec. (c)(6)(B)(iii). Pub. L. 95-43, § 1(a)(13), inserted "eligible" preceding "institution" in two instances.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1073. Limitations on participation in Federal loan insurance programs

[*See main edition for text of* (*a*)]

(b) Conditions authorizing issuance of certificates of insurance

The Commissioner may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State),

(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loan such lender intends to make to such student borrowers, or

(3) under such circumstances as may be approved by the State or nonprofit private institution or organization in such State with which the Commissioner has an agreement under section 1078(b) of this title, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-43, § 1(a)(14), June 15, 1977, 91 Stat. 214.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-43 added par. (3).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1075. Federal loan insurance limitations

(a) Maximum annual insurable loan; maximum aggregate insured unpaid principal amount

(1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

(A) that in the case of loans to a student for his first academic year of a program of post-secondary education, and who has not previously enrolled in such a program, which are made by an eligible lender as described in section 1085(g)(1)(D) of this title or which are made or originated (as defined in section 1083(b) of this title) by an eligible institution, the total of such loans may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 1078(a)(2)(C)(i) of this title).

(B) that in the case of a loan made or originated (as defined in section 1083(b) of this title) by an eligible institution which is made to such a first-year student, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(C) in cases where the Commissioner determines, pursuant to regulations prescribed by

him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit. For the purpose of clause (B), all loans made within any period of 90 days shall be considered a single loan.

[*See main edition for text of (2); (b)*]

(As amended Pub. L. 95-43, § 1(a)(15)-(17), June 15, 1977, 91 Stat. 214.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-43, § 1(a)(15)(17), substituted in cl. (A) "loans to a student for his first academic year of a program of postsecondary education" for "a loan to a student who is or will be in his first year of a program of undergraduate education", "program, which are" for "program which is", "or which are" for "or which is", and "the total of such loans" for "the loan"; substituted in cl. (B) "to such a first-year student" for "to a student for his first academic year of postsecondary education"; and added end sentence for consideration as a single loan all loans made within any period of 90 days for the purpose of cl. (B).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43, other than par. (17) thereof, deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Amendment of subsec. (a)(1) by section 1(a)(17) of Pub. L. 95-43 effective thirty days after June 15, 1977, see section 2(b)(2) of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the changes made in subsec. (a) (other than pars. (1)(A) and (B)) shall become applicable to loans to cover the costs of education for periods of enrollment beginning on or after Oct. 1, 1976, and the changes made in pars. (1)(A) and (B) of subsec. (a) shall become applicable to loans made on or after Feb. 12, 1977, to cover such costs for such periods beginning on or after Nov. 12, 1976, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

§ 1077. Conditions for Federal loan insurance

(a) Student eligibility; terms of loans

A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

[*See main edition for text of (1)*]

(2) evidenced by a note or other written agreement which—

[*See main edition for text of (A) to (D)*]

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 1087 of this title,

[*See main edition for text of (F)*]

(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower,

[*See main edition for text of (H) and (I); (b) and (c)*]

(As amended Pub. L. 95-43, § 1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214.)

AMENDMENTS

1977—Subsec. (a)(2)(E). Pub. L. 95-43, § 1(a)(9), correcting an error in Pub. L. 94-482, substituted a comma for the period appearing at the end of the text.

Subsec. (a)(2)(G). Pub. L. 95-43, § 1(a)(18), correcting an error in Pub. L. 94-482, substituted a comma for the semicolon appearing at the end of the text.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the changes made in subsec. (a)(1)(C) shall become applicable to loans to cover the costs of education for periods of enrollment beginning on or after Oct. 1, 1976, and the changes made in subsec. (a)(2)(G) and (H) shall become applicable to loans made on or after June 1, 1977, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

§ 1078. Federal interest subsidy payments

(a) Eligibility; amount; time and manner of payment; statements required by Commissioner from loan holders; prohibition against subsidizing certain loans; eligible lenders; applicability to students attending an eligible institution in other than a State

[*See main edition for text of (1) to (7)*]

(8)(A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Commissioner pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 1087-1 of this title shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course period of enrollment for which the loan is made.

[*See main edition for text of (B)*]

(9) With respect to any loan for which a determination must be made as to whether a portion of the interest is payable under this section, in the case of a student attending an eligible institution which is located in other than a State, the determination to be made and the statement to be provided by such institution under paragraph (2)(B)(ii) of this subsection shall be made and provided by (A) the Commissioner in the case of a loan described by paragraph (1)(A), (B) the State in the case of a loan described by paragraph (1)(B), or (C) the State or a nonprofit private institution or organization as the case may be, in the case of a loan described by paragraph (1)(C).

(b) Agreements with State and nonprofit private institutions for subsidy payments on loans insured under student loan insurance program of such State or institution; standards for student loan insurance program; required provisions of agreement

(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Commissioner) of not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

(i) that the program may not authorize the insurance of loans which are made by an eligible lender as described in section 1085(g)(1)(D) of this title or which are made or originated (as defined in section 1083(b) of this title) by an eligible institution to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with subsection (a)(2)(C)(i) of this section),

(ii) that the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 1083(b) of this title) by an eligible institution, and is made to such a first-year student, unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

[*See main edition for text of (iii)*]

but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit, and all loans issued within any period of 90 days shall be considered as a single loan for purposes of division (ii);

[*See main edition for text of (B) to (N)*]

(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student; and

(P) requires the borrower to promptly notify the holder of the loan concerning any change of address.

[*See main edition for text of (2)*]

(e) Federal guaranty and supplementary guaranty of student loans insured under non-Federal programs; amount of reimbursement; exceptions; amount of loans in repayment; provisions of guaranty agreement; definitions; additional eligible agreements; equitable share of payments by Commissioner; maximum amount payable in any fiscal year

(1) [*See main edition for text of (A) and (B)*]

(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans made by a lender which are insured by such an institution or organization reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, and (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

[*See main edition for text of (2) to (4)*]

(5) In the case of any guaranty agreement, with a State or nonprofit private institution or organization with which the Commissioner has an agreement pursuant to subsection (b) of this section, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution, or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6)(A) For the purpose of paragraph (2)(D) and for the purpose of section 1078-1(b)(5) of this title the Commissioner's equitable share of payments made by the borrower shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of loans reimbursed under this section and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection), to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f) of this section.

(B) For the purpose of this paragraph, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable and

[*See main edition for text of (ii)*]

subject to such additional criteria as the Commissioner may by regulation prescribe.

(7)(A) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

(i) which begins on or after the effective date of this paragraph; and

(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under subsection (b) of this section, or is one of the four succeeding fiscal years,

shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

[*See main edition for text of (B); (d) and (e)*]

(f) Special payments to States and nonprofit private institutions under guaranty and supplementary guaranty agreements for administrative costs, etc.; determination of amounts; requirements for expenditures; definitions; prerequisites

(1) [*See main edition for text of (A)*]

(B) Except as provided in subparagraph (C), each State or nonprofit private institution or organization to which subparagraph (A) of this paragraph applies shall spend not less than ¼ of the payments received pursuant to this paragraph on the purposes described in clause (i) or subparagraph (A), not less than ½ of such payments on the purposes described in clauses (ii) and (iii) of subparagraph (A), and the remaining amount of such payments on the purpose described in clause (iv) of such subparagraph.

(C) For any State which is eligible to receive a reserve fund advance under section 1072(c)(5)(B) of this title, the spending minimum required by subparagraph (B) with respect to purposes described in clauses (ii) and (iii) of subparagraph (A) shall, for the first year of such eligibility, not be applicable and shall, for the second and third years of such eligibility, be an amount equal to 20 per centum of the payments received under this paragraph.

(2) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 1078-1(a)(2) of this title for the purposes of—

(i) the administrative costs of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention; or

(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) For the purpose of this subsection, the term—

(A) "administrative costs of promotion of commercial lender participation" means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the cost of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) an appropriate share of the costs of establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (v) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location,

[*See main edition for text of (B) and (C)*]

subject to such additional criteria as the Commissioner may by regulation prescribe.

[*See main edition for text of (4); (g)*]

(As amended Pub. L. 95-43, § 1(a)(19)-(29), June 15, 1977, 91 Stat. 214-216.)

Amendments

1977—Subsec. (a)(8)(A). Pub. L. 95-43, § 1(a)(19), substituted in the last sentence "over the period of enrollment for which the loan is made" for "over the course of the academic year".

Subsec. (a)(9). Pub. L. 95-43, § 1(a)(20), substituted "for which a determination must be made as to whether" for "for which", "the determination to be made" for "the determinations to be made (except the determinations of good standing)", and "paragraph (2)(B)(ii) of this subsection" for "paragraph (2)(A)(i) and (2)(B)(ii) of this subsection".

Subsec. (b)(1). Pub. L. 95-43, § 1(a)(21), (22), inserted in subpar. (A), following "authorizes the insurance" the words "in any academic year or its equivalent (as determined under regulations of the Commissioner)", substituted in subpar. (A), div. (i), "loans which are made" for "a loan which is made", "or which are" for "or which is", and "to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser" for "to a student who has not successfully completed a program of undergraduate education in an amount in excess", substituted in subpar. (A), div. (ii), "to such a first-year student" for "to a student for his first academic year of postsecondary education", and provided in the end text of subpar. (A) that all loans issued within any period of 90 days shall be considered as a single loan for purposes of div. (ii); and struck out subpar. "(P) provides that the borrower shall, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations," and redesignated former subpar. (Q) as (P).

Subsec. (c)(1)(C). Pub. L. 95-43, § 1(a)(23) substituted "made by a lender which are insured by such an institution or organization" for "insured by it" and struck out cl. "(iv) the original principal amount of loans repaid by the Commissioner under section 1087 of this title".

Subsec. (c)(5). Pub. L. 95-43, § 1(a)(24) struck out "entered into prior to September 1, 1969" following "In the case of any guaranty agreement" and substituted "an agreement pursuant to subsection (b) of this section" for "in effect on that date an agreement pursuant to subsection (b) of this section, or section 988(b) of this title, made prior to August 3, 1968".

Subsec. (c)(6). Pub. L. 95-43, § 1(a)(25), inserted in subpar. (A) following "For the purpose of paragraph (2)(D)" the words "and for the purpose of section 1978—1(b)(5) of this title" and struck out "pursuant to such paragraph" following "by the borrower"; substituted in subpar. (A), cl. (ii), "of loans reimbursed under this subsection and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection, to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f) of this section" for "of the loan and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection) reimbursed pursuant to subsection (f) of this section, to the extent such costs do not exceed 30 per centum of such payments"; and substituted in subpar. (B), cl. (i), "costs of collection of loans" for "costs of collection of the loan".

Subsec. (c)(7)(A)(ii). Pub. L. 95-43, § 1(a)(26), substituted "guarantee agreement under subsection (b) of this section" for "guarantee agreement under this subsection".

Subsec. (f)(1). Pub. L. 95-43, § 1(a)(27), substituted in subpar. (B) introductory text "Except as provided in subparagraph (C), each State" for "Each State" and added subpar. (C).

Subsec. (f)(2). Pub. L. 95-43, § 1(a)(28), redesignated subpar. (A) as the complete par. (2) and struck out subpar. "(B) The provisions of subparagraph (B) of paragraph (1) shall apply to any payments made under subparagraph (A) of this paragraph."

Subsec. (f)(3)(A). Pub. L. 95-43, § 1(a)(29), correcting an error in Pub. L. 94-482, substituted a comma for the period appearing at the end of the text.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43, other than pars. (20) and (21)(D) thereof, deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Amendment of subsec. (a)(9) by section 1(a)(20) of Pub. L. 95-43 effective thirty days after June 15, 1977, but determinations made pursuant to subsec. (a)(9), as in effect between Sept. 30, 1976, and the thirtieth day after June 15, 1977, as valid if determinations comply with subsec. (a)(9), as amended by section (a)(20) of Pub. L. 95-43; and amendment of subsec. (b)(1)(A) by section 1(a)(21)(D) of Pub. L. 95-43 effective thirty days after June 15, 1977, see section 2(b)(2) of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the changes made in subsec. (b)(1)(A) other than divisions (i) and (ii) and (b)(1)(B) shall become applicable to loans to cover the costs of education for periods of enrollment beginning on or after Oct. 1, 1976, the changes made in subsec. (b)(1)(A)(i) and (ii) shall become applicable to loans made on or after Feb. 12, 1977, to cover such costs for such periods beginning on or after Nov. 12, 1976, and the changes made in subsec. (b)(1)(N), (O), and (P) shall become applicable to loans made on or after June 1, 1977, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070c-4, 1071, 1072, 1073, 1075, 1078-1, 1080, 1081, 1082, 1084, 1085, 1087, 1087-1, 1087-2, 1088b-1 of this title.

§ 1078-1. Student loan insurance programs

(a) Supplemental guaranty agreements for reimbursement

(1) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 1078(c)(1) of this title whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 1078(c)(1)(B) of this title, if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner) in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

[*See main edition for text of* (*B*)]

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

[*See main edition for text of* (*D*) *to* (*F*)]

(2) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 1078(c)(1) of this title for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 1078(f)(2) of this title if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner) in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the

case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

[*See main edition for text of (B)*]

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

[*See main edition for text of (D) to (F)*]

(b) Terms and conditions

Each supplemental guaranty agreement entered into under subsection (a) of this section—

[*See main edition for text of (1) to (4)*]

(5) shall provide that if, after the Commissioner has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 1081 of this title) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Commissioner consistent with section 1078(c)(6) of this title) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

[*See main edition for text of (6); (c)*]

(As amended Pub. L. 95-43, § 1(a)(30)-(32), June 15, 1977, 91 Stat. 216.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(30), (31), inserted in pars. (1)(A) and (2)(A) "who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner)" after "to any individual student" and "not" preceding "successfully completed" and substituted as cl. (C) in pars. (1) and (2) "(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization" for "(C) provides for the insurance of loans for part-time [parttime] (so stated in par. (2)(C)) study at an eligible institution in the same manner as is provided under the Federal student loan insurance program".

Subsec. (b)(5). Pub. L. 95-43, § 1(a)(32), inserted within the parentheses after "regulations prescribed by the Commissioner" the phrase "consistent with section 1078(c)(6) of this title".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1080. Default of student borrower under Federal loan insurance program

(a) Notification of Commissioner; payment of amount of loss; collection standards

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Commissioner) to the date on which payment is authorized by the Commissioner, reduced to the extent required by section 1075(b) of this title. Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan.

[*See main edition for text of (b) to (e)*]

(As amended Pub. L. 95-43, § 1(a)(33), June 15, 1977, 91 Stat. 216.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43 substituted "accrued interest, including interest accruing" for "interest accrued".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1078, 1078-1, 1079, 1085 of this title.

§ 1083. Institutional lenders

(a) [*See main edition for text of (1)*]

(2) Whenever the Commissioner determines that the termination of the eligible institution's status as a lender under clause (A) of paragraph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides to economically disadvantaged students, and related factors, the Commissioner shall waive the provisions of such paragraph with respect to that institution.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-43, § 1(a)(34), June 15, 1977, 91 Stat. 216.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-43 substituted "clause (A) of paragraph (1)" for "paragraph (1)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, except that the new provisions of this section shall become effective to loans made on or after Feb. 12, 1977, to cover the costs of education for periods of enrollment beginning on or after Nov. 12, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the new provisions of this section shall become effective to loans made on or after Feb. 12, 1977, to cover the costs of education for periods of enrollment beginning on or after Nov. 12, 1976, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

§ 1085. Definitions for student loan insurance program

As used in this part:

[*See main edition for text of (a) to (f)*]

(g)(1) Except as provided in paragraphs (2), (3), and (4), the term "eligible lender" means—

[*See main edition for text of (A)*]

(B) a pension fund as defined in the Employee Retirement Income Security Act [29 U.S.C. 1001 et seq.];

[*See main edition for text of (C) to (F); (2)*]

(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Commissioner determines, after notice and opportunity for a hearing, that for each of two consecutive years 15 per centum or more of the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution with respect to students at that institution and repayable in each such year is in default, as defined in section 1080(e)(2) of this title.

[*See main edition for text of (4); (h) and (i)*]

(As amended Pub. L. 95-43, § 1(a)(35), (36), June 15, 1977, 91 Stat. 216.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act, referred to in subsec. (g)(1)(B), probably means the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 832, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-43, § 1(a)(35), (36), substituted in par. (1)(B) "Employee" for "Employees" and in par. (3) "the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution" for "the amount of the loan described in section 1078(a)(1) of this title made".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

AUTHORITY FOR LIMITATION, SUSPENSION, OR TERMINATION OF ELIGIBILITY OF INSTITUTION OF HIGHER EDUCATION

Amendment of subsec. (b)(1) of this section by Pub. L. 94-482 was not to be construed to authorize terminating the eligibility of an institution deemed to be an institution of higher education for purposes of this section on Oct. 12, 1976, but the authority of the Commissioner to limit, suspend, or terminate eligibility was also not to be construed as impaired, see section 181(b) of Pub. L. 94-482, set out as a note under section 1141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1074, 1075, 1078, 1087-2, 1088f-1 of this title; title 42 sections 294d, 2753.

§ 1087-1. Special allowances

[*See main edition for text of (a)*]

(b) Computation of special allowance

(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2)(A) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid

pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

[*See main edition for text of* (*B*)]

(C) Except as provided in paragraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period after October 1, 1977, to exceed 5 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate which would not cause such excess.

[*See main edition for text of* (*3*)]

(4) [*See main edition for text of* (*A*)]

(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 7 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Commissioner authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

[*See main edition for text of* (*5*)]

(6) The Commissioner shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection, subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this section.

(c) Adoption and amendment of regulations

The Commissioner shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a)(6)(B)(ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection, but no payments shall be made under such Act after the effective date of this section.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

(e) Committee on the Process of Determining Student Loan Special Allowances

In order to assure (i) that the limitation on interest payments, or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (ii) that incentive payments on such loans are paid promptly to eligible lenders, (iii) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (iv) that participating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, there is established a Committee on the Process of Determining Student Loan Special Allowances (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of—

(1) the Commissioner of Education;

(2) the Secretary of Health, Education, and Welfare;

(3) the Secretary of Treasury;

(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 1078(b) of this title;

(5) a student financial aid administrator of an eligible institution (as defined in section 1085(g)(2) of this title);

(6) a business officer of an eligible institution (as defined in section 1085(g)(2) of this title);

(7) a representative of participating eligible lenders other than one defined in section 1085(g)(1)(E) of this title;

(8) a student at an eligible institution (as defined in section 1085(g)(2) of this title); and

(9) a representative of the Student Loan Marketing Association, designated by the Board of Directors of the Association.

(f) Appointment of Committee members

The Commissioner shall appoint the members of the Committee described in paragraphs (4), (5), (6), (7), and (8) of subsection (e) of this section, after consultation in the case of those members appointed under each such paragraph, with nationally-recognized organizations of such persons or agencies.

(g) Report to Houses of Congress; considerations for determination of quarterly rate; cooperation of Office of Education; consultants; termination of Committee

(1) No later than October 1, 1977, the Committee shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowance paid under this section which they believe will carry out the objectives set forth in subsection (a) of this section.

(2) The Committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowance established under this section.

(3) In developing the method for the determination of the quarterly rate of the special allowance under this section, the Committee shall consider—

(A) the experiences of students, and eligible lenders under the method prescribed in this section, and under the method in operation prior to the enactment of this section,

(B) the administrative costs of various types of eligible lenders under this part,

(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowance, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowance to eligible lenders, and

(E) such other factors as the Committee considers necessary to carry out the purposes of this section.

(4) In carrying out its responsibilities under this section, the Committee shall be given the full cooperation and assistance of the official in the Office of Education directly responsible for the administration of this part B of this subchapter and such other appropriate officials of the Office of Education as the Committee deems appropriate.

(5) In order to assist the Committee to carry out its functions under this section, the Commissioner of Education is authorized to hire consultants, and to enter into contracts, and pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

(6) The Commissioner of Education shall convene the first session of the Committee within sixty days after October 12, 1976. The Chairman of the Committee shall be selected by those members who are not officials of the Federal Government from among themselves.

(7) The Committee is not authorized to employ permanent employees or to lease or obtain the use of permanent offices or to take other steps to extend its period of service beyond the time necessary to complete its responsibilities under this section.

(8) The Committee shall cease to exist ten days after the submission of the report prescribed in paragraph (1) of this subsection.

(As amended Pub. L. 95-43, § 1(a)(37), June 15, 1977, 91 Stat. 216.)

CODIFICATION

Section as originally enacted by Congress contained two subsec. (b) designations. In the main edition, the second subsec. (b) and subsecs. (c) to (g) were editorially redesignated as subsecs. (c) to (h) in conformance with the probable intent of Congress. This matter was resolved by Pub. L. 95-43 which redesigned the second subsec. (b) as par. (6) of the preceding subsec. (b). Accordingly, subsecs. (d) to (h) in the main edition were editorially redesignated in this supplement as subsecs. (c) to (g) to conform with the original enactment.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-43, § 1(a)(37)(A) to (F), substituted in par. (1), "average unpaid balance of principal" for "unpaid balance of disbursed principal"; added in par. (2)(A), cl. (iv); substituted: in par. (2)(C), "paragraph (4)" for "subparagraph (4)", in par. (4)(B), "paragraph (2)" for "paragraph (3)", and in par. (4)(C), "paragraph" for "subparagraph"; and redesignated as par. (6) another paragraph designated (b), substituting therein "this subsection" for "subsection (a) of this section".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, except that provisions of this section shall become effective with respect to fiscal quarters beginning after Dec. 31, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTONS

This section is referred to in section 1078 of this title.

§ 1087-2. Student Loan Marketing Association

[*See main edition for text of* (a)]

(b) Creation, duration, location of offices, tax exemption, and advances to assist establishment

(1) There is created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

[*See main edition for text of* (2) *and* (3); (c) *to* (n)]

(As amended Pub. L. 95-43, § 1(a)(38), June 15, 1977, 91 Stat. 217.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-43 substituted "resident and citizen" for "resident".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

PART D—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070a, 1070b-1, 1070e, 1078, 1088b, 1088b-3, 1088f, 1145c of this title.

§ 1087dd. Terms and conditions of loans

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Written instruments for loans; repayment: generally, cancellation, deferral

[*See main edition for text of* (*1*)]

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

[*See main edition for text of* (*i*) *to* (*iii*)]

(iv) is in service as a volunteer under Domestic Volunteer Act of 1973 [42 U.S.C. 4951 et seq.].

The period during which repayment may be deferred by reason of clause (ii), (iii), or (iv) shall not exceed three years.

[*See main edition for text of* (*B*), (*3*) *and* (*4*); (*d*) *and* (*e*)]

(As amended Pub. L. 95-43, § 1(a)(39), June 15, 1977, 91 Stat. 217.)

REFERENCES IN TEXT

The Domestic Volunteer Act of 1973, referred to in subsec. (c)(2)(A), probably means the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4951 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4951 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (c)(2)(A)(iv). Pub. L. 95-43 substituted "the Domestic Volunteer Act of 1973" for "title VIII of the Economic Opportunity Act of 1964".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

PART E—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

§ 1088. Definitions

(a) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term "State" has the meaning set forth in section 1141(b) of this title.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Pub. L. 95-180, § 1(b), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-180 substituted "has the meaning set forth in section 1141(b) of this title" for "includes the Trust Territory of the Pacific Islands".

§ 1088b. Expenses of administration

(a) Source and amount of payment

An institution which has entered into an agreement with the Commissioner under subpart 2 of part A, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter shall be entitled for each fiscal year for which it receives an allotment under any such part to a payment for the purposes set forth in subsection (c) of this section. The payment for a fiscal year (1) shall be payable from each such allotment in accordance with regulations of the Commissioner, and (2) shall (except as provided in subsection (b) of this section) be an amount equal to 4 per centum of (A) the institution's expenditures during the fiscal year from its allotment under part A of this subchapter plus (B) its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, plus (C) the principal amount of loans made during such fiscal year from its student loan fund established under part E of this subchapter.

(b) Limitations

The aggregate amount paid to an institution for a fiscal year under this section may not exceed $325,000.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-43, § 1(a)(40), June 15, 1977, 91 Stat. 217.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(40)(A), (B), in first sentence, substituted reference to subpart 2 of part A for prior reference to part A of this subchapter, included reference to part D of this subchapter, and substituted "any" for "either" and "for the purposes set forth in subsection (c) of this section" for "in lieu of reimbursement for its expenses during such fiscal year in administering programs assisted under such part"; and added cl. (C) to the second sentence.

Subsec. (b). Pub. L. 95-43, § 1(a)(40)(C), eliminated from the limitation of the aggregate amount paid to an institution the additional amount withdrawn from the student loan fund under section 424(b) of this title and the requirement of use of such amounts to carry out the provisions of section 1088b—1 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1088f. Eligibility for student assistance

AUTHORITY FOR LIMITATION, SUSPENSION, OR TERMINATION OF ELIGIBILITY OF INSTITUTION OF HIGHER EDUCATION

Amendment of sections 1141(a) and 1085(b)(1) of this title by Pub. L. 94-482 was not to be construed as authorizing the termination of eligibility of an institution deemed an institution of higher education for purposes of sections 1141(a) and 1085(b)(1) of this title on Oct. 12, 1976, but the authority of the Commissioner to limit, suspend, or terminate eligibility was also not to be construed as impaired under this section, see section 181(b) of Pub. L. 94-482, set out as a note under section 1141 of this title.

§ 1088f-1. Fiscal eligibility of institutions

[*See main edition for text of (a) and (b)*]

(c) Suspension or termination of eligibility status

Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Commissioner may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in subsection (a)(4) of this section, until he finds that such practices have been corrected.

[*See main edition for text of (d) and (e)*]

(As amended Pub. L. 95-43, § 1(a)(41), June 15, 1977, 91 Stat. 217.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-43, correcting an error in Pub. L. 94-482, substituted "subsection (a)(4) of this section" for "paragraph (a)(3) of this section".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SUBCHAPTER V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

§§ 1119, 1119a

CODIFICATION

Pub. L. 95-43, § 1(b)(5), June 15, 1977, 91 Stat. 218, redesignated section 153(a) of Pub. L. 94-482, title I, Oct. 12, 1976, 90 Stat. 2155, which amended sections 1119, 1119a of this title, as section 153.

§ 1119a-1. Grants to institutions of higher education for training of higher education personnel; conditions

(a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals—

[*See main edition for text of (1)*]

(2) serving as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education, if such individuals are to be trained to meet changing personnel needs, such as in areas determined to be national priority areas pursuant to section 1221e-1(d)(1)(D) of this title.

[*See main edition for text of (b)*]

(Pub. L. 89-329, title V, § 533, as added Pub. L. 94-482, title I, § 153, Oct. 12, 1976, 90 Stat. 2155, and amended Pub. L. 95-43, § 1(a)(42), (b)(5), June 15, 1977, 91 Stat. 217, 218.)

CODIFICATION

Pub. L. 95-43, § 1(b)(5), struck out reference to subsec. (a) from the credit of section 153 of Pub. L. 94-482, which enacted this section, there being no other subsections.

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-43, § 1(a)(42), substituted "section 1221e-1(d)(1)(D) of this title" for "section 1119a of this title".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SUBCHAPTER VI—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

§ 1122. Allotments to States

(a) Amount; enrollment determinations; allotment ratios

[*See main edition for text of (1)*]

(2) For the purposes of this paragraph the Commissioner shall allot to each State for each fiscal year an amount which bears the same ratio to the funds being allotted pursuant to this paragraph as the product of—

(A) the number of students enrolled in institutions of higher education in such State, and

(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States. For the purposes of this paragraph the allotment ratio for any State shall be 1.00 less the product of (i) 0.50 and (ii) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and Guam), except that the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, and the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, and Guam shall be 0.66⅔. The allotment ratios shall be promulgated by the Commissioner as soon as possible after November 8, 1965, and annually thereafter, on the basis of the average of the incomes per person of the States and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 95-180, § 1(c), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-180 added ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" following "American Samoa".

SUBCHAPTER VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

§ 1132b. Statement of purpose; grants or contracts by Commissioner; authorization of appropriations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132b-1 of this title.

§ 1132c-4. Annual interest grants

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations; aggregate amount of contracts

[*See main edition for text of* (1)]

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Act; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed $5,000,000 which amount shall be increased by $6,750,000 on July 1, 1969, and by $13,500,000 on July 1, 1970 and on the first day of each fiscal year during the period ending September 30, 1979.

[*See main edition for text of* (d) *and* (e)]

(As amended Pub. L. 95-43, § 1(b)(6), June 15, 1977, 91 Stat. 218.)

AMENDMENTS

1977—Pub. L. 95-43, § 1(b)(6), amended Pub. L. 94-482, § 162(g), to strike out paragraph designation (1) [amending subsec. (b)] and to strike out paragraph (2) [amending subsec. (c)(2) by substituting "six succeeding years, and October 1, 1977, and on October 1 of each of the succeeding fiscal years" for "four succeeding years"], thus eliminating amendment by Pub. L. 94-482, § 162(g)(2), inconsistent with amendment by Pub. L. 94-482, § 161(d).

1976—Subsec. (b). Pub. L. 94-482, § 162(g), as amended by Pub. L. 95-43, § 1(b)(6) to strike out paragraph designation (1) [amending subsec. (b)] and to strike out par. (2) [amending subsec. (c)(2)], substituted "1132c—1(b)" for "1132c—3(b)(3)".

Subsec. (c)(2). Pub. L. 94-482, § 161(d), substituted "the first day of each fiscal year during the period ending September 30, 1979" for "July 1 of each of the four succeeding years". Pub. L. 94-482, § 162(g), amended by Pub. L. 95-43, § 1(b)(6), to strike out paragraph designation (1) [amending subsec. (b)] and to strike out paragraph (2) [amending subsec. (c)(2) by substituting "six succeeding years, and October 1, 1977, and on October 1 of each of the succeeding fiscal years" for "four succeeding years"], thus eliminating amendment by Pub. L. 94-482, § 162(g)(2), inconsistent with amendment by Pub. L. 94-482, § 161(d).

§ 1132d-11. Grants or loans to institutions of higher education and higher education building agencies

(a) Sources of funds; primary purpose requirements

The Commissioner is authorized to make grants from funds appropriated under section 1132a(b) of this title, loans from funds appropriated under section 1132c(b) of this title, or loans, to the extent provided in advance by appropriations Acts, from any unused amounts in the fund established under section 1132c-3 of this title, notwithstanding any prior restrictions on the use of such unused amounts, to institutions of higher education and to higher education building agencies for the reconstruction or renovation of academic facilities if the primary purpose of such reconstruction or renovation is—

[*See main edition for text of* (1) *and* (2)]

(b) Determination of compliance with primary purpose requirements

(1) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to conserve energy, the Commissioner shall consult with other Federal agencies which have specific expertise in energy conservation.

(2) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to meet environmental protection standards or health or safety requirements imposed under law, the Commissioner shall consult with the appropriate Federal, State or local agency responsible for the administration of such law.

(3) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to comply with the Act of August 12, 1968 [42 U.S.C. 4151 et seq.], the Commissioner shall consult with the Architectural and Transportation Barriers Compliance Board and the Administrator of General Services.

[*See main edition for text of* (c)]

(d) Recovery of payments: depreciated value of improvements; period of Federal interest

Grants and loans awarded for the purposes of this part shall not be subject to the provisions of subsections (a) and (b) of section 1132e of this title. The Commissioner shall, with respect to each such grant or loan, determine the period which shall be deemed to be the period of Federal interest in the facility reconstructed or renovated. If, within such period, such facility ceases to be used as an academic facility, the United States shall recover from the applicant (or its successor in title or possession) an amount representing the depreciated value of the improvements made with such grant or loan, determined in accordance with the procedures set forth in the last sentence of section 1132e(b) of this title.

(e) Funds for graduate and undergraduate facilities

Funds appropriated under section 1132a(b) of this title available for grants under this part may be used for graduate and undergraduate facilities and may be used without regard to whether such funds will increase or create enrollment capacity, health care capacity, or capacity to carry out extension and containing education programs.

(As amended Pub. L. 95-43, § 1(a)(43), June 15, 1977, 91 Stat. 217.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(43)(A), struck out "grants from funds appropriated under section 1132b(b) of this title," following "section 1132a(b) of this title,".

Subsec. (b). Pub. L. 95-43, § 1(a)(43)(B), substituted in pars. (1) to (3) "In establishing criteria for determining" for "In determining".

Subsecs. (d), (e). Pub. L. 95-43, § 1(a)(43)(C), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1132e. Recovery of payments

(a) Period of Federal interest

The Congress finds and declares that, if a facility constructed with the aid of a grant or grants under part A or B of this subchapter is used as an academic facility for twenty years following completion of such construction the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this subchapter.

(b) Amount of recovery

If, within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under part A or B of this subchapter—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-43, § 1(a)(44), June 15, 1977, 91 Stat. 218.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-43 struck out ", reconstruction, or renovation" following "construction" and "reconstructed or renovated" following "constructed,", wherever appearing in subsecs. (a) and (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a-6, 1132d-11 of this title.

SUBCHAPTER X—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

§ 1135. Development of plans

[*See main edition for text of* (a)]

(b) Authorization of appropriations

[*See main edition for text of* (1)]

(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-180, § 1(c), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-180 added ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" following "American Samoa".

§ 1135a-1. Apportionments; State defined

(a) From the sums appropriated pursuant to section 1135a(b) of this title for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-180, § 1(c), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-180 added ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" following "American Samoa".

SUBCHAPTER XII—GENERAL PROVISIONS

§ 1141. Definitions

As used in this chapter—

[*See main edition for text of* (*a*)]

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[*See main edition for text of* (*c*) *to* (*l*)]

(Pub. L. 89-329, title XII, § 1201, formerly title VIII, § 801, Nov. 8, 1965, 79 Stat. 1269, as renumbered and amended Pub. L. 90-575, title II, §§ 251, 293, 294, Oct. 16, 1968, 82 Stat. 1042, 1050, 1051; Pub. L. 91-230, title VIII, § 806(b), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92-318, title I, § 131(d)(1), June 23, 1972, 86 Stat. 260; Pub. L. 94-482, title I, § 181(a), Oct. 12, 1976, 90 Stat. 2167; Pub. L. 95-43, § 1(b)(7), June 15, 1977, 91 Stat. 218; Pub. L. 95-180, § 1(a), Nov. 15, 1977, 91 Stat. 1372.)

Codification

Section 1(b)(7) of Pub. L. 95-43 redesignated section 181 of Pub. L. 94-482 as section 181(a).

Amendments

1977—Subsec. (b). Pub. L. 95-180 added the government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands to the enumeration of areas included within the term "State".

Retroactive Effect of 1977 Amendment

Section 1(d) of Pub. L. 95-180 provided that: "Nothing in this Act [amending this section and sections 1088, 1122, 1135, and 1135a-1 of this title], the Higher Education Act of 1965 [see Short Title note set out under section 1001 of this title], or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act [Nov. 15, 1977]."

Authority for Limitation, Suspension, or Termination of Eligibility of Institution of Higher Education

Section 181(b) of Pub. L. 94-482, as added by Pub. L. 95-43, § 1(b)(7), provided that: "Neither the amendment made by subsection (a) of this section [to subsec. (a) of this section] nor the amendment made to section 435(b)(1) of the Act [section 1085(b)(1) of this title] (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) [section 1085(b)(1) of this title and subsec. (a) of this section] on the date of enactment of this Act [Oct. 12, 1976]. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act [section 1088f of this title]."

Section Referred to in Other Sections

This section is referred to in sections 1088, 2002, 2402 of this title; title 25 section 13; title 29 sections 892a, 981; title 30 section 1291; title 33 section 1262; title 39 section 3626; title 42 sections 3033, 3781.

CHAPTER 30—BASIC EDUCATION FOR ADULTS

§ 1208a. Special projects for the eldery

[*See main edition for text of* (*a*)]

(b) Authorization of appropriations

For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to October 1, 1979, and for the period beginning July 1, 1976, and ending September 30, 1976.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-112, § 3(a)(1), Sept. 24, 1977, 91 Stat. 912.)

Amendments

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

§ 1209. National Advisory Council on Adult Education

[*See main edition for text of* (*a*)]

(b) Membership; meetings; termination

The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 1233g(b) of this title, the Council shall continue to exist until October 1, 1979.

[*See main edition for text of* (*c*) *and* (*d*)]

(As amended Pub. L. 95-112, § 3(a)(2), Sept. 24, 1977, 91 Stat. 912.)

Amendments

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

§ 1211. Authorization of appropriations

(a) There are authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, $150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for the fiscal year ending September 30, 1977, and for each of the succeeding fiscal years ending prior to October 1, 1979: *Provided*, That, effective with respect to fiscal years after June 30, 1974, grants to each State under section 1204 of this title shall not be less than 90 per centum of the grants made to such State agencies in fiscal year 1973.[1] for the purposes of this chapter (other than sections 1208a and 1211a of this title).

[*See main edition for text of* (b)]

(As amended Pub. L. 95-112, § 3(b), Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-112 substituted "for the fiscal year ending September 30, 1977, and for each of the succeeding fiscal years ending prior to October 1, 1979" for "for each of the fiscal years ending June 30, 1977, and June 30, 1978".

§ 1211a. Grants for improvement of education opportunities for adult Indians

[*See main edition for text of* (a) *to* (c)]

(d) Authorization of appropriations

For the purpose of making grants under this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to October 1, 1979.

(As amended Pub. L. 95-112, § 3(c), Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-112 substituted "October 1, 1979" for "July 1, 1978".

CHAPTER 31—GENERAL PROVISIONS CONCERNING EDUCATION

§ 1221e-1. National Center for Education Statistics

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1119a-1, 1232 of this title.

§ 1225. Availability of appropriations

[*See main edition for text of* (a)]

(b) Succeeding fiscal year

Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, ending prior to October 1, 1979, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-112, § 5, Sept. 24, 1977, 91 Stat. 912.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

§ 1233g. Report by Commissioner of Education

(a) Submission to congressional committees; contents

Not later than June 30 of each calendar year after 1970, the Commissioner shall submit, as a part of the Commissioner's annual report, a report on the activities of the advisory councils which are subject to this subchapter to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and affiliations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each such advisory council.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-43, § 1(d), June 15, 1977, 91 Stat. 219.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43 substituted "June 30" for "March 31".

CHAPTER 33—EDUCATION OF THE HANDICAPPED

§ 1401. Definitions

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-49, June 17, 1977, 91 Stat. 230, provided: "That this Act [amending sections 1426, 1436, 1441, 1444, and 1454 of this title, and enacting provisions set out as notes under this section and section 1426 of this title] may be cited as the 'Education of the Handicapped Amendments of 1977'."

§ 1426. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of section 1421 of this title, $19,000,000 for the fiscal year 1978 and for the succeeding fiscal year, $21,000,000 for fiscal year 1980, $24,000,000 for fiscal year 1981, and $25,000,000 for fiscal year 1982. There are authorized to be appropriated to carry out the provisions of section 1422 of this title, $22,000,000 for fiscal year 1978, $24,000,000 for fiscal year 1979, $26,000,000 for fiscal year 1980, $29,000,000 for fiscal year 1981, and $32,000,000 for fiscal year 1982. There are authorized to be appropriated to carry out the provisions of section 1423 of this title, $25,000,000 for fiscal year 1978 and for each of the two succeeding fiscal years, $20,000,000 for fiscal year 1981 and for

[1] Period inserted by amendment made by Pub. L. 93-380, title VI, § 608(a), Aug. 21, 1974, 88 Stat. 579, probably should have been a comma.

the succeeding fiscal year. There are authorized to be appropriated to carry out the provisions of section 1424a of this title, $10,000,000 for the fiscal year 1978, $12,000,000 for the fiscal year 1979, $14,000,000 for the fiscal year 1980, and $16,000,000 for the fiscal year 1981 and for the succeeding fiscal year.

(As amended Pub. L. 95-49, § 2, June 17, 1977, 91 Stat. 230.)

AMENDMENTS

1977—Pub. L. 95-49 authorized appropriations of $19,000,000 for fiscal year 1978, $19,000,000 for fiscal year 1979, $21,000,000 for fiscal year 1980, $24,000,000 for fiscal year 1981, and $25,000,000 for fiscal year 1982 to carry out the provisions of section 1421 of this title, authorized appropriations of $22,000,000 for fiscal year 1978, $24,000,000 for fiscal year 1979, $26,000,000 for fiscal year 1980, $29,000,000 for fiscal year 1981, and $32,000,000 for fiscal year 1982 to carry out the provisions of section 1422 of this title, authorized appropriations of $25,000,000 for fiscal year 1978, $25,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, $20,000,000 for fiscal year 1981, and $20,000,000 for fiscal year 1982 to carry out the provisions of section 1423 of this title, and authorized appropriations of $10,000,000 for fiscal year 1978, $12,000,000 for fiscal year 1979, $14,000,000 for fiscal year 1980, $16,000,000 for fiscal year 1981, and $16,000,000 for fiscal year 1982 to carry out the provisions of section 1424a of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7 of Pub. L. 95-49 provided that: "The amendments made by sections 2, 3, 5, and 6 [amending this section and sections 1436, 1444, and 1454 of this title] shall take effect on October 1, 1977."

§ 1436. Authorization of appropriations

There are authorized to be appropriated for carrying out the provisions of this subchapter (other than section 1433 of this title) $75,000,000 for the fiscal year 1978, $80,000,000 for the fiscal year 1979, $85,000,000 for the fiscal year 1980, $90,000,000 for the fiscal year 1981, and $95,000,000 for the fiscal year 1982. There are authorized to be appropriated to carry out the provisions of section 1433 of this title, $2,000,000 for the fiscal year 1978 and the succeeding fiscal year, and $2,500,000 for the fiscal year 1980 and each of the two succeeding fiscal years.

(As amended Pub. L. 95-49, § 3, June 17, 1977, 91 Stat. 230.)

AMENDMENTS

1977—Pub. L. 95-49 authorized appropriations of $75,000,000 for fiscal year 1978, $80,000,000 for fiscal year 1979, $85,000,000 for fiscal year 1980, $90,000,000 for fiscal year 1981, and $95,000,000 for fiscal year 1982 for carrying out the provisions of this subchapter (other than section 1433 of this title), and authorized appropriations of $2,000,000 for fiscal year 1978, $2,000,000 for fiscal year 1979, $2,500,000 for fiscal year 1980, $2,500,000 for fiscal year 1981, and $2,500,000 for fiscal year 1982 to carry out the provisions of section 1433 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective on Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as an Effective Date of 1977 Amendment note under section 1426 of this title.

§ 1441. Research, surveys, demonstration projects, and model programs relating to education of handicapped children

The Commissioner is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children, including the development and conduct of model programs designed to meet the special educational needs of such children.

(As amended Pub. L. 95-49, § 4, June 17, 1977, 91 Stat. 230.)

AMENDMENTS

1977—Pub. L. 95-49 added provisions calling for the development and conduct of model programs designed to meet the special educational needs of handicapped children.

§ 1444. Authorization of appropriations

For the purposes of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1978, $22,000,000 for the fiscal year 1979, $24,000,000 for the fiscal year 1980, $26,000,000 for the fiscal year 1981, and $28,000,000 for the fiscal year 1982.

(As amended Pub. L. 95-49, § 5, June 17, 1977, 91 Stat. 231.)

AMENDMENTS

1977—Pub. L. 95-49 authorized the appropriation of $20,000,000 for fiscal year 1978, $22,000,000 for fiscal year 1979, $24,000,000 for fiscal year 1980, $26,000,000 for fiscal year 1981, and $28,000,000 for fiscal year 1982 for the purposes of carrying out this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective on Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as an Effective Date of 1977 Amendment note under section 1426 of this title.

§ 1454. Authorization of appropriations

For the purpose of carrying out this subchapter there are authorized to be appropriated not to exceed $24,000,000 for the fiscal year 1978, $25,000,000 for the fiscal year 1979, $27,000,000 for the fiscal year 1980, $29,000,000 for the fiscal year 1981 and for each succeeding fiscal year thereafter.

(As amended Pub. L. 95-49, § 6, June 17, 1977, 91 Stat. 231.)

AMENDMENTS

1977—Pub. L. 95-49 raised the appropriation authorization for fiscal year 1978 from $22,000,000 to $24,000,000, for fiscal year 1979 from $22,000,000 to $25,000,000, for fiscal year 1980 from $22,000,000 to

$27,000,000, and for fiscal year 1981 and each succeeding fiscal year thereafter from $22,000,000 to $29,000,000.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective on Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as an Effective Date of 1977 Amendment note under section 1426 of this title.

CHAPTER 40—CONSOLIDATION OF EDUCATION PROGRAMS

§ 1801. Authorization of appropriations

(a)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $395,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each succeeding fiscal year ending prior to October 1, 1979, for the purpose of making grants under part B (Libraries and Learning Resources) of this subchapter.

[*See main edition for text of* (2)]

(b)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $350,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each succeeding fiscal year ending prior to October 1, 1979, for the purpose of making grants under part C (Educational Innovation and Support) of this subchapter.

[*See main edition for text of* (2); (c)]

(d) There are authorized to be appropriated for obligation by the Commissioner during each fiscal year ending prior to October 1, 1979, such sums as may be necessary for the purpose of increasing the allotment under section 1802(a)(2) of this title for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II [20 U.S.C. 821 et seq.], title III [20 U.S.C. 841 et seq.], title V [20 U.S.C. 861 et seq.], and sections 807 and 808 of this Act [20 U.S.C. 887, 887a], and title III [20 U.S.C. 441 et seq.] (except for section 305 [20 U.S.C. 445]) of the National Defense Education Act of 1958.

(As amended Pub. L. 95-112, § 2(d), Sept. 24, 1977, 91 Stat. 911.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-112, § 2(d)(1), substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the two succeeding fiscal years".

Subsec. (b)(1). Pub. L. 95-112, § 2(d)(2), substituted "each succeeding fiscal year ending prior to October 1, 1979" for "each of the two succeeding fiscal years".

Subsec. (d). Pub. L. 95-112, § 2(d)(3), substituted "each fiscal year ending prior to October 1, 1979" for "the fiscal year ending September 30, 1978".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 868, 1802 1803, 2532 of this title.

§ 1802. Allotments to States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1801, 1803, 1805 of this title.

§ 1865. Career education

[*See main edition for text of* (a) *to* (f)]

(g) National Advisory Council for Career Education; establishment; official members: nonvoting ex officio capacity; public members: representation of disciplines and general public, appointment, Chairman, terms of office; staff and funds; duties; survey and assessment; report to Congress

(1) Subject to part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.] and within ninety days after August 21, 1974, there is established a National Advisory Council for Career Education which shall be composed of—

[*See main edition for text of* (A)]

(B) not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively.

[*See main edition for text of* (2) *to* (4); (h)]

(As amended Pub. L. 95-207, § 13(e), Dec. 13, 1977, 91 Stat. 1472.)

AMENDMENTS

1977—Subsec. (g)(1)(B). Pub. L. 95-207 substituted "not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively" for "not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, a majority of whom shall be engaged in education or education-related professions".

MODEL PROGRAMS AND POSTSECONDARY EDUCATIONAL CAREER DEMONSTRATION PROJECTS UNDER CAREER EDUCATION INCENTIVE ACT

Funds not to be made available under subsec. (f)(1) of this section for grants or contracts with local educational agencies for any fiscal year in which funds are appropriated under the Career Education Incentive Act [chapter 46 of this title] and reserved for the purposes of the model programs provisions contained therein under section 2604(a)(2)(A) of this title, see section 2609(b) of this title.

Funds not to be made available under subsec. (f)(1) of this section for grants or contracts with institution of higher education for any fiscal year in which funds are appropriated pursuant to section 2610(c) of this title, see section 2610(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1861, 2503, 2506, 2609, 2610, 2612 of this title.

CHAPTER 44—VOCATIONAL EDUCATION

PART A—STATE VOCATIONAL EDUCATION PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§ 2302. Authorization of appropriations

(a) There are authorized to be appropriated $880,000,000 for fiscal year 1978, $1,030,000,000 for fiscal year 1979, $1,180,000,000 for fiscal year 1980, $1,325,000,000 for fiscal year 1981, and $1,485,000,000 for fiscal year 1982, for the purpose of carrying out subparts 2 and 3 of this part.

[*See main edition for text of* (b) *and* (c)]

(d) There are also authorized to be appropriated $25,000,000 for fiscal year 1978 and for each fiscal year ending prior to October 1, 1982, for the purpose of assisting States in—

(1) preparing the five-year plans required under section 2307 of this title;

(2) preparing the annual program plans and accountability reports, including the collection of necessary data, required to be submitted under section 2308 of this title; and

(3) conducting the evaluations required by section 2312 of this title.

(4) Repealed. Pub. L. 95-40, § 1(2), June 3, 1977, 91 Stat. 203.

(As amended Pub. L. 95-40, § 1(1), (2), June 3, 1977, 91 Stat. 203.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(1), substituted "$1,325,000,000" for "$1,325,000" and "$1,485,000,000" for "$1,485,000".

Subsec. (d)(4). Pub. L. 95-40, § 1(2), struck out subsec. (d)(4) which had provided for assistance to States for State administration of vocational education programs assisted under this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2303, 2310, 2311, 2370, 2380, 2563 of this title.

§ 2303. Allotments among States

(a) Allotment formula; applicability to Indian tribes

(1)(A) Subject to the provisions of subsection (d) of this section, from the sums appropriated pursuant to section 2302(a) of this title, the Commissioner shall first reserve an amount equal to 5 per centum of such sums. From the amount so reserved, the Commissioner shall transfer an amount, not to be less than $3,000,000 but not to exceed $5,000,000 in any fiscal year, to the National Occupational Information Coordinating Committee established pursuant to section 2391(b)(1) of this title and the remainder of the amount so reserved shall be used by the Commissioner for programs of national significance under subpart 2 of part B.

(B) [*See main edition for text of* (i) *and* (ii)]

(iii) The Commissioner is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under the Act of April 16, 1934 [25 U.S.C. 452 et seq.], to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this chapter, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act [25 U.S.C. 450f] and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 [25 U.S.C. 455, 456, 457], which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to division (i) of this subparagraph (B), the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this chapter in institutions serving Indians described in division (i) of this subparagraph (B), and the Secretary of the Interior is authorized to receive these funds for that purpose. Beginning in the fiscal year 1979, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subparagraph to pay a part of the costs of programs funded under this subparagraph. During each of the fiscal years covered by this subparagraph, the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities. The Commissioner and the Commissioner of Indian Affairs shall jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subparagraph. Upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Commissioner shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

[*See main edition for text of* (2); (b)]

(c) Allotment ratio

(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40, and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the

Trust Territory of the Pacific Islands shall be 0.60.

[*See main edition for text of (2) to (4); (d) and (e)*]

(As amended Pub. L. 95-40, § 1(3), (4), June 3, 1977, 91 Stat. 203.)

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-40, § 1(3), substituted "established pursuant to section 2391(b)(1) of this title" for "established pursuant to section 2391 of this title".

Subsec. (a)(1)(B)(iii). Pub. L. 95-40, § 1(4)(A), (B), substituted "any Indian tribe which is eligible to contract with the Secretary of the Interior" for "any Indian tribe which has contracted with the Secretary of the Interior", struck out provision that the Bureau of Indian Affairs be deemed to be a State board for purposes of this chapter, and added provisions that, beginning in the fiscal year 1979, the Bureau of Indian Affairs expend an amount equal to the amount made available under this subparagraph to pay a part of the costs of programs funded under this subparagraph, that during each of the fiscal years covered by this subparagraph, the Bureau of Indian Affairs expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities, that the Commissioner and the Commissioner of Indian Affairs jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subparagraph, and that, upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Commissioner assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

Subsec. (c)(1)(B). Pub. L. 95-40, § 1(4)(C), inserted "the Northern Mariana Islands," following "the Virgin Islands," in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2305, 2310, 2311, 2330, 2350, 2370, 2380, 2391, 2401, 2402, 2563 of this title.

§ 2305. State advisory councils

(a) Establishment; membership

Any State which desires to participate in programs under this chapter for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Members of each State advisory council shall be appointed for terms of three years except that (1) in the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be for such terms as remain unexpired. Each State advisory council shall have as a majority of its members persons who are not educators or administrators in the field of education and shall include as members one or more individuals who—

[*See main edition for text of (1) to (19)*]

(20) are vocational education students who are not qualified for membership under any of the preceding clauses of this sentence.

Members of the State advisory council may not represent more than one of the above-specified categories. In appointing the State advisory council the Governor or the State board of education, as the case may be, shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State.

[*See main edition for text of (b) and (c)*]

(d) Functions and duties

[*See main edition for text of (1) to (3)*]

(4)(A) Each State advisory council shall identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the State Manpower Services Council, which comments shall be included in the annual report submitted by the State advisory council pursuant to this section and in the annual report submitted by the State council pursuant to section 817 of title 29.

[*See main edition for text of (e)*]

(f) Authorization of appropriations for grants to councils; amount of grants; expenditure of funds

(1) There are authorized to be appropriated $8,000,000 for fiscal year 1978, $8,500,000 for fiscal year 1979, $9,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, and $10,000,000 for fiscal year 1982, for the purpose of making grants to State advisory councils from amounts allotted to such advisory councils in accordance with the method for allotment contained in section 2303(a)(2) of this title, to carry out the functions specified in this section. From the sums appropriated pursuant to this subsection, the Commissioner shall, subject to the provisions of the following sentence, make grants to State advisory councils to carry out the functions specified in this section, and shall pay to each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this chapter in such fiscal year, except that no State advisory council shall receive an amount to exceed $200,000 or an amount less than $75,000. In the case of Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Commissioner may pay the State advisory council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if he determines that the council can perform its functions with a lesser amount.

[*See main edition for text of (2); (g)*]

(As amended Pub. L. 95-40, § 1(5), (6), June 3, 1977, 91 Stat. 203.)

AMENDMENTS

1977—Subsec. (a)(20). Pub. L. 95-40, § 1(5)(A), substituted "clauses of this sentence" for "clauses of this paragraph".

Subsec. (d)(4)(A). Pub. L. 95-40, § 1(5)(B), inserted "special education," following "vocational rehabilitation,".

Subsec. (f)(1). Pub. L. 95-40, § 1(6), substituted "$10,000,000 for fiscal year 1982" for "$8,000,000 for fiscal year 1982", substituted "subject to the provisions of the following sentence, make grants to State advisory councils from amounts allotted to such advisory councils in accordance with the method for allotment contained in section 2303(a)(2) of this title," for "subject to the provisions of the following sentence, make grants to State advisory councils", and inserted "the Northern Mariana Islands," following "American Samoa,".

§ 2306. General application of State; submission through State Board; required assurances; applicability to other statutory requirements

(a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this chapter shall, through its State board, submit to, and maintain on file with, the Commissioner a general application providing assurances—

[*See main edition for text of (1) to (7)*]

(8) that funds received under this chapter will not be used for any program of vocational education (except personnel training programs under section 2355 of this title, renovation programs under subpart 4 of part B, and homemaking programs under subpart 5 of this part) which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

[*See main edition for text of (9) and (10); (b)*]

(As amended Pub. L. 95-40, § 1(7), June 3, 1977, 91 Stat. 204.)

AMENDMENTS

1977—Subsec. (a)(8). Pub. L. 95-40 inserted a closing parenthesis following "under subpart 5 of this part".

§ 2307. Five-year State plan; required participation in formulation; public hearings; contents

(a)(1) Any State desiring to receive funds under this chapter shall submit to the Commissioner, during fiscal year 1977 and during each fifth fiscal year occurring thereafter, a State plan for vocational education for the five fiscal years succeeding each such fiscal year in which the plan is submitted. In formulating this plan, the State board shall involve the active participation of—

[*See main edition for text of (A) to (J)*]

This participation shall include at least four meetings during the planning year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan is developed; the second meeting shall be to consider the first draft of the plan; the third meeting shall be to consider the draft of the plan rewritten to reflect the results of the second meeting; and the fourth meeting shall be to approve the final plan. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the State plan, the State board shall have the responsibility for reaching a final decision on those provisions; but the State board shall include in the plan (A) the recommendations rejected by the board, (B) the agency, council, or individual making each such recommendation, and (C) the reasons of the State board for rejecting these recommendations. Any agency or council described above which is dissatisfied with any final decision of the State board may appeal the board's decision to the Commissioner. In such a case the Commissioner shall afford such agency or council and the State board reasonable notice and opportunity for a hearing and shall determine whether the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of this chapter. Any agency or State board dissatisfied with a final action of the Commissioner under this subsection may appeal to the United States Court of Appeals for the circuit in which the State is located in accordance with the procedure specified in section 1232c(d)(2) of this title.

[*See main edition for text of (2); (b)*]

(As amended Pub. L. 95-40, § 1(8), June 3, 1977, 91 Stat. 204.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-40 inserted "in which the plan is submitted" following "five fiscal years succeeding each such fiscal year" in the provisions preceding subpar. (A), and, in the provisions following subpar. (J), capitalized the identifying letters for the clauses from "(a)" to "(A)", "(b)" to "(B)", and "(c)" to "(C)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2304, 2305, 2306, 2308, 2309, 2330, 2350, 2443 of this title.

§ 2308. Annual program plans and accountability reports; required participation in formulation; public hearings; contents

[*See main edition for text of (a)*]

(b) The annual program plan and accountability report shall be submitted to the Commissioner by the July 1st preceding the beginning of the fiscal year for which the plan is to be effective. This plan and report shall contain:

(1) planning provisions which—

[*See main edition for text of (A)*]

(B)(i) set out explicitly how the State during that fiscal year will comply with the uses of Federal, State, and local funds proposed for that fiscal year in the five-year plan, including a description of these uses

for State administration and in terms of the elements listed in clauses (2)(A)(i) through (2)(A)(iv) of section 2307 of this title, and describe how these uses of funds may differ from those proposed in the five-year plan and give the reasons for any such changes;

[*See main edition for text of* (ii), (*C*)]

(2) reporting provisions which—

[*See main edition for text of* (*A*)]

(B) show explicitly how funds available under this chapter have been used during that fiscal year, including a description of the uses of these funds for State administration and among the authorized uses of funds set out in sections 2330, 2350, 2370, and 2380 of this title, and including a description of the distribution of these funds among local educational agencies and other eligible recipients in conformity with the requirements contained in section 2306(a)(5) of this title, and give the results achieved with these funds; and

[*See main edition for text of* (*C*)]

(As amended Pub. L. 95-40, § 1(15)(B), (C), June 3, 1977, 91 Stat. 205.)

AMENDMENTS

1977—Subsec. (b)(1)(B)(i). Pub. L. 95-40, § 1(15)(B), substituted "including a description of these uses for State administration and in terms of" for "including a description of these uses in terms of".

Subsec. (b)(2)(B). Pub. L. 95-40, § 1(15)(C), substituted "uses of these funds for State administration and among the authorized uses of funds" for "uses of these funds among the authorized uses of funds".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2304, 2305, 2306, 2309, 2330, 2350 of this title.

§ 2310. Priority of allotments of State funds for vocational education programs

(a) Handicapped persons

For each fiscal year, at least 10 per centum of each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for handicapped persons.

(b) Disadvantaged and limited English-speaking persons; stipends

(1) For each fiscal year, at least 20 per centum of each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for disadvantaged persons (other than handicapped persons), for persons who have limited English-speaking ability, and for providing stipends authorized under section 2330(b)(1)(G) of this title.

[*See main edition for text of* (*2*)]

(c) Persons enrolled in intermediate degree programs, in labor market, or unemployed

For each fiscal year, at least 15 per centum of each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for (1) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs, and (2) persons who have already entered the labor market, or are unemployed, or who have completed or left high school and who are not described in paragraph (1).

[*See main edition for text of* (*d*)]

(As amended Pub. L. 95-40, § 1(9), (10), June 3, 1977, 91 Stat. 204.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(9), substituted "section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvements and supportive services under subpart 3 for handicapped persons" for "section 2303 of this title shall be used to pay 50 per centum of the cost of vocational education for handicapped persons".

Subsec. (b)(1). Pub. L. 95-40, § 1(9), substituted "section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvements and supportive services under subpart 3" for "section 2303 of this title shall be used to pay 50 per centum of the cost of vocational education".

Subsec. (c). Pub. L. 95-40, § 1(10), substituted "section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for" for "section 2303 of this title shall be used to pay 50 per centum of the cost of vocational education for".

§ 2311. Payments to States

(a)(1) The Commissioner shall pay, from the amount available to each State for grants under this part (except subpart 5) to eligible recipients, an amount not to exceed—

[*See main edition for text of* (*A*)]

(B) 50 per centum of the cost of programs, services, and activities under subpart 2 and program improvement and supportive services under subpart 3 for persons with special needs described in sections 2310(a), (b), and (c) of this title;

(C) a part of the costs of supervision and administration of vocational education programs by an eligible recipient, except that such payment shall not exceed (i) a percentage of such costs equal to the percentage of the total costs of the vocational education

program of such eligible recipient paid for from this section, or (ii) 50 per centum of such costs if the non-Federal share of such costs is paid by the State from appropriations for such purpose; and

(D) 100 per centum of the cost of vocational education programs provided in accordance with sections 2332(f), 2352(b), and 2370(b)(2) of this title;

except that in the case of the Trust Territory of the Pacific Islands, the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa, such amount shall be equal to 100 per centum of such expenditures.

(2)(A) In addition, the Commissioner shall pay, from each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title, an amount not to exceed the Federal share of the cost of State administration of such plans.

(B) For the purpose of this paragraph, the Federal share for any fiscal year shall be 50 per centum, except that (1) for fiscal year 1978 it shall be 80 per centum and for fiscal year 1979 it shall be 60 per centum, and (2) whenever the Commissioner determines in exceptional circumstances that for the latest fiscal year for which reliable data is available preceding fiscal year 1978 State and local expenditures for vocational education in a State exceed ten times the Federal expenditure for vocational education in that State, and that the State has an appropriate, economic, and efficient State administration of the program, the Commissioner shall set the Federal share for fiscal year 1978 for that State in excess of the Federal share specified in clause (1), but not to exceed 100 per centum.

(3) In addition, the Commissioner shall pay, from the amount available to each State from the amount appropriated under section 2302(d) of this title, an amount not to exceed 100 per centum of the cost of carrying out the purposes described in such section 2302(d) of this title.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-40, § 1(11)-(15)(A), (D), (16)(A), June 3, 1977, 91 Stat. 204, 205.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-40, § 1(11)-(14), substituted "an amount not to exceed" for "an amount equal to" in the provisions preceding subpar. (A), substituted "sections" for "section" and "programs, services, and activities under subpart 2 and program improvement and supportive services under subpart 3" for "vocational education programs" in subpar. (B), added subpar. (C), redesignated former subpar. (C) as (D), substituted "provided in accordance with sections 2332(f), 2352(b), and 2370(b)(2) of this title" for "described in sections 2332(f), 2353(b), and 2370 of this title" in subpar. (D) as so redesignated, and, in the provisions following subpar. (D), inserted ", the Northern Mariana Islands, Guam, the Virgin Islands," following "Trust Territory of the Pacific Islands".

Subsec. (a)(2)(A). Pub. L. 95-40, § 1(15)(A), substituted "from each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title, an amount not to exceed the Federal share of the cost of State administration of such plans" for "from the amount available to each State for administration of State plans appropriated under section 2302(d) of this title, an amount equal to the Federal share of the cost of administration of such plan".

Subsec. (a)(2)(B). Pub. L. 95-40, § 1(16)(A), substituted "for the latest fiscal year for which reliable data is available preceding fiscal year 1978" for "for the fiscal year preceding fiscal year 1978".

Subsec. (a)(3). Pub. L. 95-40, § 1(1)(15)(D), added subsec. (a)(3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2330, 2350, 2380 of this title.

SUBPART 2—BASIC GRANT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2302, 2303, 2304, 2307, 2310, 2311 of this title.

§ 2330. Authorization of grants; uses of funds

(a) From the sums made available for grants under this subpart pursuant to section 2303 of this title, the Commissioner is authorized to make grants to States to assist them in conducting vocational education programs and other programs, services, and activities operated in accordance with the requirements of this subpart.

(b)(1) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 2309 of this title, for the following purposes:

[*See main edition for text of* (A) *to* (K)]

(L) vocational education for—

[*See main edition for text of* (i) *to* (iii)]

(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered for job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males;

(M) construction and operation of residential vocational schools as described in section 2334 of this title;

(N) provision of vocational training through arrangements with private vocational training institutions where such private institutions can make a significant contribution to attaining the objectives of the State plan, and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions; and

(O) subject to the provisions of section 2311 of this title, the costs of supervision and administration of vocational education programs by eligible recipients, and State administration of the five-year plan submitted pursuant to section 2307 of this title and of the annual program plan submitted pursuant to section 2308 of this title, except that not more than 80 per centum of the amount of payments determined under section 2311 of

this title for such purposes shall be made from grants under this subpart.

[*See main edition for text of* (2)]

(As amended Pub. L. 95-40, § 1(16)(B), (17)(A), June 3, 1977, 91 Stat. 205.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(16)(B), inserted "and other programs, services, and activities operated" following "vocational education programs".

Subsec. (b)(1). Pub. L. 95-40, § 1(17)(A), added subpars. (N) and (O).

§ 2332. Cooperative vocational education programs; requirements

Funds available to the States under section 2330 of this title may be used for establishing or expanding cooperative vocational education programs through local educational agencies with the participation of public and private employers. Such programs shall include provisions assuring that—

[*See main edition for text of* (a) *to* (f)]

(g) Federal funds made available under this section to accommodate students in nonprofit private schools will not be commingled with State or local funds; and

[*See main edition for text of* (h)]

(As amended Pub. L. 95-40, § 1(17)(B), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-40 substituted "made available under this section to accommodate students in nonprofit private schools" for "used for purposes of this section".

SUBPART 3—PROGRAM IMPROVEMENT AND SUPPORTIVE SERVICES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2302, 2303, 2310, 2311 of this title.

§ 2350. Authorization of grants; uses of funds

[*See main edition for text of* (a)]

(b) Grants to States under this subpart may be used, in accordance with five-year State plans, and annual program plans approved pursuant to section 2309 of this title, for the following purposes:

[*See main edition for text of* (1) *to* (4)]

(5) provision of pre-service and in-service training as described in section 2355 of this title;

(6) grants to overcome sex bias as described in section 2356 of this title; and

(7) subject to the provisions of section 2311 of this title, the costs of supervision and administration of vocational education programs by eligible recipients, and State administration of the five-year plan submitted pursuant to section 2307 of this title and of the annual program plan submitted pursuant to section 2308 of this title, except that not more than 20 per centum of the amount of payments determined under section 2311 of this title for such purposes shall be made from grants under this subpart.

(As amended Pub. L. 95-40, § 1(17)(C), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (b)(7). Pub. L. 95-40 added subsec. (b)(7).

§ 2351. Research coordination units; contracts covering program improvement

(a) Funds available to the States under section 2350(a) of this title may be used for support of State research coordinating units and for contracts by those units pursuant to comprehensive plans of program improvement involving—

[*See main edition for text of* (1) *to* (5); (b)]

(As amended Pub. L. 95-40, § 1(18)(A), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40 substituted "coordinating" for "coordination" in the provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2350, 2401 of this title.

§ 2352. Exemplary and innovative programs

(a) Supportive contracts

Funds available to the States under section 2350(a) of this title may be used for contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of exemplary and innovative programs, including—

[*See main edition for text of* (1) *to* (5)]

(b) Contract priorities

Every contract made by a State for the purpose of funding exemplary and innovative projects shall give priority to programs and projects designed to reduce sex stereotpying in vocational education and shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds made available under this section to accommodate students in nonprofit private schools will not be commingled with State or local funds.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-40, § 1(18)(B), (C), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(18)(B), substituted "contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of" for "contracts, as part of the

comprehensive plans of program improvement mentioned in section 2351(a) of this title, for the support of" in the provisions preceding par. (1).

Subsec. (b). Pub. L. 95-40, § 1(18)(C), inserted "made available under this section to accommodate students in nonprofit private schools" following "Federal funds".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2350, 2401 of this title.

§ 2353. Curriculum development projects

(a) Funds available to the States under section 2350(a) of this title may be used for contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of curriculum development projects, including—

[*See main edition for text of (1) and (2); (b)*]

(As amended Pub. L. 95-40, § 1(19), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40 inserted "by State research coordinating units pursuant to comprehensive plans of program improvement" following "may be used for contracts" in the provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2350, 2401 of this title.

§ 2354. Vocational guidance and counseling

(a) Not less than 20 per centum of the funds available to the States under section 2350(a) of this title shall be used to support programs for vocational development guidance and counseling programs and services which, subject to the provisions of subsection (b) of this section, shall include one or more of the following activities—

[*See main edition for text of (1) to (8); (b)*]

(As amended Pub. L. 95-40, § 1(20), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40 substituted "shall include one or more of the following activities" for "shall include" in the provisions preceding par. (1).

SUBPART 5—CONSUMER AND HOMEMAKING EDUCATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2302, 2306, 2311, 2563 of this title.

PART B—NATIONAL PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§ 2391. Vocational education data and occupational information data systems; development; establishment of National Occupational Information Coordinating Committee

(a)(1) The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. This system shall include information resulting from the evaluations required to be conducted by section 2312(b) of this title (as such section will be in effect on October 1, 1977) and other information on vocational—

[*See main edition for text of (A) to (F); (2)*]

(3)(A) After the completion of the development of these information elements and uniform definitions pursuant to paragraph (1), the Administrator shall immediately begin to design, implement, and operate this information system which shall be in full operation for the fiscal year beginning October 1, 1978.

[*See main edition for text of (B); (4)*]

(b)(1) There is established a National Occupational Information Coordinating Committee which shall consist of the Commissioner, the Administrator, the Commissioner of Labor Statistics, and the Assistant Secretary for Employment and Training. This Committee, with funds available to it under section 2303(a) of this title (as such section will be in effect on October 12, 1976 and on October 1, 1977), shall—

[*See main edition for text of (A)*]

(B) develop and implement, by September 30, 1978, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications; and

[*See main edition for text of (C); (2)*]

(As amended Pub. L. 95-40, § 1(21)-(23), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-40, § 1(21), substituted "section 2312(b) of this title" for "section 2312 of this title" in the provisions preceding subpar. (A).

Subsec. (a)(3)(A). Pub. L. 95-40, § 1(22), substituted "October 1, 1978" for "October 1, 1977".

Subsec. (b)(1). Pub. L. 95-40, § 1(23), substituted "(as such section will be in effect on October 12, 1976, and on October 1, 1977)" for "(as such section will be in effect on October 1, 1977)" in the provisions preceding subpar. (A) and substituted "September 30, 1978" for "September 30, 1977" in subpar. (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2303, 2307, 2309 of this title; title 29 sections 802, 894g.

§ 2392. National Advisory Council on Vocational Education

[*See main edition for text of (a)*]

(b) Functions and duties

The National Advisory Council shall—

[*See main edition for text of (1) to (3)*]

(4)(A) identify, after consultation with the National Commission for Manpower Policy, the vocational education and employment and training needs of the Nation and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Commission, which comments shall be included in one of the reports submitted by the National Advisory Council pursuant to this section and in one of the reports submitted by the National Commission pursuant to section 505 of the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 955];

[*See main edition for text of* (5) *to* (7)]

(c) Authorization of appropriations

There are authorized to be appropriated $450,000 for the fiscal year ending September 30, 1978, $475,000 for the fiscal year ending September 30, 1979, and $500,000 for each of the fiscal years ending prior to September 30, 1982 for the purposes of this subsection. The Council is authorized to use the funds appropriated pursuant to the preceding sentence to carry out its functions as set forth in this section and to engage such technical assistance as may be required to assist it in performing these functions. The National Council may accept gifts if the acceptance of such gifts will better enable it to carry out its functions under this section.

(As amended Pub. L. 95-40, § 1(24), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (b)(4)(A). Pub. L. 95-40, § 1(24)(A), inserted "special education," following "vocational rehabilitation,".

Subsec. (c). Pub. L. 95-40, § 1(24)(B), substituted "subsection" for "paragraph" and added provision authorizing the National Council to accept gifts if the acceptance of the gifts better enables it to carry out its function.

SUBPART 4—EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATION OF VOCATIONAL EDUCATION FACILITIES

§ 2441. Statement of purpose

It is the purpose of this subpart to provide emergency assistance, for a limited period of time, to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training, in order to assist such agencies in the modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational eductation[1] programs which give reasonable promise of of[1] employment, including the remodeling and renovation of such facilities to make the facilities comply with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.].

(As amended Pub. L. 95-40, § 1(25), June 3, 1977, 91 Stat. 207.)

REFERENCES IN TEXT

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in text, is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1977—Pub. L. 95-40 substituted "subpart" for "part" and "Act of August 12, 1968" for "Act of August 2, 1968".

§ 2442. Authorization of appropriations

There are authorized to be appropriated $25,000,000 for fiscal year 1978, $50,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, and $100,000,000 for fiscal year 1981, to carry out the purpose of this subpart.

(As amended Pub. L. 95-40, § 1(25), June 3, 1977, 91 Stat. 207.)

AMENDMENTS

1977—Pub. L. 95-40 substituted "subpart" for "part".

PART C—DEFINITIONS

§ 2461. Definitions

As used in this chapter—

[*See main edition for text of* (1) *to* (6)]

(7) The term "handicapped", when applied to persons, means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program.

(8) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[*See main edition for text of* (9) *to* (14)]

(15) The term "industrial arts education programs" means those education programs (A) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning

[1] So in original.

experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes and (B) which assist individuals in the making of informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

[*See main edition for text of (16) to (19)*]

(20) The term "administration" means activities of a State necessary for the proper and efficient performance of its duties under this chapter, including supervision, but not including ancillary services.

(21) The term "private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, or (ii) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, or (iii) if the Commissioner determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(As amended Pub. L. 95-40, § 1(26), (27), June 3, 1977, 91 Stat. 207.)

AMENDMENTS

1977—Par. (7). Pub. L. 95-40, § 1(26)(A), substituted "orthopedically impaired" for "crippled" and added reference to persons with specific learning disabilities.

Par. (8). Pub. L. 95-40, § 1(26)(B), inserted "the Northern Mariana Islands," following "American Samoa,".

Par. (15). Pub. L. 95-40, § 1(27)(A), substituted "designing" for "designating".

Par. (20). Pub. L. 95-40, § 1(27)(B), substituted "The term" for "For purposes of this chapter, the term".

Par. (21). Pub. L. 95-40, § 1(27)(C), added par. (21).

CHAPTER 45—CAREER EDUCATION AND CAREER DEVELOPMENT

§ 2502. Funding requirements

[*See main edition for text of (a)*]

(b) Availability of amounts appropriated; allotments to States, etc.

[*See main edition for text of (1)*]

(2) From the remainder of the sums appropriated under this subchapter, the Commissioner shall reserve such amount, not to exceed 1 per centum thereof, as he may determine necessary and shall allot such amount among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subchapter.

(3) [*See main edition for text of (A)*]

(B) For purposes of this paragraph, the term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

[*See main edition for text of (c)*]

(As amended Pub. L. 95-207, § 16, Dec. 13, 1977, 91 Stat. 1474.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-207, § 16(1), substituted "1 per centum" for "3 per centum" and struck out "the Commonwealth of Puerto Rico," following "shall allot such amounts among".

Subsec. (b)(3)(B). Pub. L. 95-207, § 16(2), substituted ", the District of Columbia, and the Commonwealth of Puerto Rico" for "and the District of Columbia".

§ 2533. Administration by unit in Education Division; establishment; functions; reservation of amount for implementation

(a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

(1) carrying out provisions of this subchapter;

[*See main edition for text of (2) and (3); (b)*]

(As amended Pub. L. 95-43, § 1(b)(8), June 15, 1977, 91 Stat. 219.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-43 substituted "this subchapter" for "this section".

§ 2563. Vocational education program studies; areas and scope of studies

[*See main edition for text of (a)*]

(b) [*See main edition for text of (1)*]

(2) The Institute shall make an interim report to the President and to the Congress not later than September 30, 1980, and shall make a final report to the President and to the Congress no later than September 30, 1981, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of

the Institute before their transmittal to the Congress, but the President and the Commissioner may make to the Congress such recommendations with respect to the content of the reports as each may deem appropriate.

(3) Sums made available pursuant to section 102 of the Vocational Education Act of 1963 (as such Act is in effect on October 12, 1976) and sections 102 and 103 of the Vocational Education Act of 1963 [20 U.S.C. 2302, 2303] (as such Act is in effect on October 1, 1977) shall be available to carry out the administrative and direct cost requirements of the provisions of this subsection concerning the National Institute of Education. These funds shall not exceed $1,000,000 per year for each of the fiscal years ending prior to October 1, 1981. Ten per centum of the funds made available under this section shall be made available for purposes of carrying out the provisions of paragraph (1)(F).

[*See main edition for text of* (4)]

(As amended Pub. L. 95-40, § 1(30), (31)(A), June 3, 1977, 91 Stat. 208.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-40, § 1(30), changed the deadline for the interim report from Sept. 30, 1979, to Sept. 30, 1980, and the deadline for the final report from Sept. 30, 1980, to Sept. 30, 1981, and struck out provisions that had set an earlier deadline of Jan. 15, 1979, for the report required under par. (1)(F).

Subsec. (b)(3). Pub. L. 95-40, § 1(31)(A), substituted "administrative and direct cost requirements of the provisions of this subsection concerning the National Institute of Education" for "administrative and direct cost requirements of the provisions of this section" and substituted "October 1, 1981" for "October 1, 1979" in the provision setting out the fiscal years in which a $1,000,000 limit is placed on funds.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1(31)(B) of Pub. L. 95-40 provided that: "The amendments made by subparagraph (A) [amending subsec. (b)(3) of this section] shall take effect on and after October 1, 1977."

CHAPTER 46—CAREER EDUCATION INCENTIVE [NEW]

Sec.
2601. Congressional findings.
2602. Congressional declaration of purpose.
2603. Authorization of appropriations.
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(b) Appropriations for immediately preceding fiscal years.
(c) Time of appropriation; availability to States.
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(a) Formula to determine each State's allotment; minimum allotment; reservation of remaining funds.
(b) Reallotment; reduction of minimum allotment.
(c) Staff employment in minimum allotment States.
2605. Applications; requisite assurances by States.
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2607. Use of funds.
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2609. Model programs.
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(b) Other career education model and State and local educational program plan grants.
2610. Postsecondary educational career demonstration projects.
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(a) Furnishing of information on Federal programs to interested parties.
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2613. Reports.
(a) Annual State reports to Commissioner of Education.
(b) Commissioner's analysis and recommendations to States.
(c) Comprehensive review by Commissioner; report to Congress no later than September 30, 1982.
2614. Definitions.

§ 2601. Congressional findings

The Congress declares that—

(1) a major purpose of education is to prepare every individual for a career suitable to that individual's preference,

(2) career education should be an integral part of the Nation's educational process which serves as preparation for work,

(3) career education holds promise of improving the quality of education and opening career opportunities for all students by relating education to their life aspirations, and

(4) educational agencies and institutions (including agencies and institutions of elementary and secondary education, higher education, adult education, employment training and retraining, and vocational education) should make every effort to fulfill that purpose.

(Pub. L. 95-207, § 2, Dec. 13, 1977, 91 Stat. 1464.)

SHORT TITLE

Section 1 of Pub. L. 95-207 provided: "That this Act [enacting this chapter and amending sections 1865 and 2502 of this title] may be cited as the 'Career Education Incentive Act'."

§ 2602. Congressional declaration of purpose

In recognition of the prime importance of work in our society and in recognition of the role that the schools play in the lives of all Americans, it is the purpose of this chapter to assist States and local educational agencies and institutions of postsecondary education, including collaborative arrangements with the appropriate agencies and organizations, in making education as preparation for work, and as a means of relating work values to other life roles and choices (such as family life), a major goal of all who teach and all who learn by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning, and to do so in a manner which will promote equal opportunity in making career choices through the elimination of bias and stereotyping in such activities, including bias and stereotyping on account of race, sex, age, economic status, or handicap.

(Pub. L. 95-207, § 3, Dec. 13, 1977, 91 Stat. 1464.)

§ 2603. Authorization of appropriations

(a) Fiscal years 1979 through 1983

Subject to the provisions of subsections (b) and (c) of this section, there are authorized to be appropriated $50,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $25,000,000 for fiscal year 1983 to carry out the provisions of this chapter, other than section 2610 of this title.

(b) Appropriations for immediately preceding fiscal years

No funds are authorized to be appropriated pursuant to subsection (a) of this section for any fiscal year beginning after September 30, 1979, unless an appropriation was made for the immediately preceding fiscal year.

(c) Time of appropriation; availability to States

No funds are authorized to be appropriated pursuant to subsection (a) of this section for any fiscal year beginning after September 30, 1979, unless such funds are appropriated in the fiscal year prior to the fiscal year in which such funds will be obligated, and unless such funds are made available for expenditure to the States prior to the beginning of such fiscal year.

(Pub. L. 95-207, § 4, Dec. 13, 1977, 91 Stat. 1464.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2605, 2606, 2608 of this title.

§ 2604. Allotments

(a) Formula to determine each State's allotment; minimum allotment; reservation of remaining funds

(1) From the funds appropriated pursuant to section 2603 of this title for each fiscal year which are not reserved under paragraph (2) of this subsection, the Commissioner shall allot to each State an amount which bears the same ratio to such funds as such State's population aged five to eighteen, inclusive, bears to the total population, aged five to eighteen, inclusive, of all the States, except that no State shall be allotted from such funds for each fiscal year an amount less than $125,000.

(2) From the remainder of the funds appropriated pursuant to section 2603 of this title for each fiscal year, the Commissioner may reserve—

(A) an amount not to exceed 5 per centum each year for the administration of this chapter and for making model program grants pursuant to section 2609 of this title,

(B) an amount not to exceed 1 per centum each year for the purpose of carrying out the information program pursuant to section 2611 of this title,

(C) an amount not to exceed one-half of one per centum each year for the purpose of carrying out a national evaluation of the effectiveness of programs assisted under this chapter in carrying out the purposes of this chapter, and

(D) an amount equal to 1 per centum for the purpose of making payments to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands in furtherance of the purposes of this chapter.

(b) Reallotment; reduction of minimum allotment

(1) Any funds allotted to a State under paragraph (1) of subsection (a) of this section for which a State has not applied or for which a State application has not been approved shall be reallotted by ratably increasing the allocations of each of the States which have approved applications.

(2) If the sums appropriated for any fiscal year are not sufficient to make the allotments of the minimum amounts specified in paragraph (1) of subsection (a) of this section, such minimum amounts shall be ratably reduced. If additional sums become available during a fiscal year for which such allotments were reduced, such allotments shall be increased on the same basis as they were reduced.

(c) Staff employment in minimum allotment States

Notwithstanding any other provision of this chapter, any State which receives, in any fiscal year, the minimum allotment prescribed under paragraph (1) of subsection (a) of this section does not have to comply with the provisions of section 2605(6) of this title relating to staff employed at the State level.

(Pub. L. 95-207, § 5, Dec. 13, 1977, 91 Stat. 1465.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2609 of this title.

§ 2605. Applications; requisite assurances by States

Every State desiring to receive funds appropriated under section 2603 of this title for fiscal year 1979 shall submit to the Commissioner an application containing assurances that—

(1) the State educational agency will be the agency responsible for planning the use, and administering the expenditure, of funds received under this chapter, other than funds made available under sections 2609, 2610, and 2611 of this title;

(2) the State legislature and the Governor have been notified of the State's application for such funds;

(3)(A) the State will expend, from its own sources, for any fiscal year for which funds are received under this chapter, an amount equal to or exceeding the amount which such State expended for career education during the fiscal year preceding the fiscal year for which the determination is made;

(B) the State will pay from non-Federal sources the non-Federal share of the costs of carrying out the State plan for fiscal year 1980 and for each of the three succeeding fiscal years;

(4) the State will make every possible effort to integrate career education into the regular education programs offered in elementary and secondary schools in the State;

(5)(A) the State educational agency will require that programs of career education assisted under this chapter will be administered by State and local educational agencies in such a manner as to affect all instructional programs in elementary and secondary education, and will not be administered solely as a part of the vocational education program;

(B) the State educational agency will require that programs of career education will be coordinated by an individual having prior experience in the field of career education (who shall be designated as a State coordinator of career education);

(6) such agency will employ such staff as are necessary to provide for the administration of this chapter and programs of career education funded under this chapter, including a person or persons experienced with respect to problems of discrimination in the labor market and stereotyping affecting career education, including bias and stereotyping on account of race, sex, age, economic status, or handicap, and including at least one professional trained in guidance and counseling who shall work jointly in the office of the principal staff person responsible for such administration and coordination and in the office of the State educational agency responsible for guidance and counseling, if any such office exists;

(7) such agency will continuously review the plan submitted under section 2606 of this title and will submit such amendments thereto as may be deemed appropriate in response to such agency's experience with the program;

(8) the State educational agency will comply with the provisions of section 2608(b) of this title with respect to the distribution of funds to local educational agencies within the State;

(9) the State educational agency will not allocate payments under this chapter among local educational agencies within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any local educational agency if the applicable jurisdiction in which such agency is located is making a reasonable tax effort solely because such agency is unable to pay the non-Federal share of the costs of programs assisted under this chapter;

(10) not less than 15 per centum of that portion of a State's grant for any fiscal year which is not reserved pursuant to section 2608(b) of this title will be used for programs described in section 2607(a)(3)(B) of this title; and

(11) the funds received under this chapter will be used in accordance with the provisions of section 2607 of this title.

(Pub. L. 95-207, § 6, Dec. 13, 1977, 91 Stat. 1465.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2606, 2607, 2608, 2613 of this title.

§ 2606. State plans

Every State desiring to receive funds appropriated pursuant to section 2603 of this title shall submit to the Commissioner by July 1, 1979, a State plan which shall—

(1) set out explicitly the objectives the State will seek to achieve by the end of each of the fiscal years for which funds are made available under this chapter in implementing the goal of providing career education for students in elementary and secondary schools within the State, with special emphasis on overcoming sex bias and stereotyping, and set out the methods by which the State will seek each year to achieve such objectives with all resources available;

(2) describe the methods by which the funds received under this chapter will be used, in accordance with section 2607 of this title, to implement the overall objectives in each of the fiscal years for which funds are made available under this chapter;

(3) set forth policies and procedures which the State will follow to assure equal access of all students (including the handicapped and members of both sexes) to career education programs carried out under the State plan;

(4) provide adequate assurance that the requirements of section 2605 of this title will be met in each fiscal year after fiscal year 1979; and

(5) provide proposed criteria to the Commissioner for the evaluation of the extent to which the State will achieve the objectives set out in the State plan.

(Pub. L. 95-207, § 7, Dec. 13, 1977, 91 Stat. 1467.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2608 of this title.

§ 2607. Use of funds

(a) Costs payable

Subject to the provisions of sections 2608(b) and 2609 of this title, funds received under this chapter may be used only to pay the Federal share of the total costs of—

(1) employing such additional State educational agency personnel as may be required for the administration and coordination of programs assisted under this chapter;

(2) providing State leadership for career education, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), in—

(A) conducting inservice institutes for educational personnel;

(B) training local career education coordinators;

(C) collecting, evaluating, and disseminating career education materials on an intrastate and interstate basis with special emphasis on overcoming sex bias and stereotyping;

(D) conducting statewide needs assessment and evaluation studies;

(E) conducting statewide career education leadership conferences;

(F) engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry and the professions and organizations representing the handicapped, minority groups, women, and older Americans; and

(G) promoting the adaptation of teacher-training curricula to the concept of career education by institutions of higher education located in the State;

(3) making payments to local educational agencies for comprehensive programs including—

(A) instilling career education concepts and approaches in the classroom;

(B) developing and implementing comprehensive career guidance, counseling, placement, and followup services utilizing counselors, teachers, parents, and community resource personnel;

(C) developing and implementing collaborative relationships with organizations representing the handicapped, minority groups, and women and with all other elements of the community, including the use of personnel from such organizations and the community as resource persons in schools and for student field trips into that community;

(D) developing and implementing work experiences for students whose primary purpose is career exploration, if such work experiences are related to existing or potential career opportunities and do not displace other workers who perform such work;

(E) employing coordinators of career education in local educational agencies or in combinations of such agencies (but not the individual school building level);

(F) training of local career education coordinators;

(G) providing inservice education for educational personnel, especially teachers, counselors, and school administrators, designed to help such personnel to understand career education, to acquire competencies in the field of career education and to acquaint such personnel with the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, and ways of assisting women and men to broaden their career horizons;

(H) conducting institutes for members of boards of local educational agencies, community leaders, and parents concerning the nature and goals of career education;

(I) purchasing instructional materials and supplies for career education activities;

(J) establishing and operating community career education councils;

(K) establishing and operating career education resource centers serving both students and the general public;

(L) adopting, reviewing, and revising local plans for coordinating the implementation of the comprehensive program; and

(M) conducting needs assessments and evaluations; and

(4) reviewing and revising the State plan.

(b) State payments to local educational agencies for comprehensive programs

The State shall make payments to local educational agencies for the purposes described in paragraph (3) of subsection (a) of this section from funds received under this chapter upon applications approved by the State educational agency. Such payments shall, to the extent practicable, be made on an equitable basis in accordance with criteria established by the State educational agency, consistent with section 2605(9) of this title, having due regard for the special needs of local educational agencies serving areas of high incidence and prevalence of youth and adult unemployment, serving sparsely populated areas or serving relatively few students.

(c) Participation of private schools

(1) To the extent consistent with the number of children enrolled in private nonprofit elementary and secondary schools within the State, with respect to services described under paragraph (2) of subsection (a) of this section, and within the school district, with respect to payments made to a local educational agency for the purposes described in paragraph (3) of such subsection, after consultation with appropriate private school officials, provision shall be made for the effective participation on an equitable basis of such children and the teachers of such children in such services and in programs assisted with such payments.

(2)(A) The control of funds provided under this chapter and title to materials and equipment therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(B) The provisions of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter to accommodate students and

teachers in nonprofit public schools shall not be commingled with State or local funds.

(Pub. L. 95-207, § 8, Dec. 13, 1977, 91 Stat. 1467.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2606, 2608, 2614 of this title.

§ 2608. Payments

(a) Payments to States upon compliance with program requirements; reduced proportions

(1) The Commissioner, upon receipt of an application of assurances for fiscal year 1979 which the Commissioner finds to be in compliance with section 2605 of this title, and upon finding the State to be in compliance with sections 2606 and 2607 of this title for fiscal years 1980 and 1981, shall pay to the State the amount which it is entitled to receive for each such year under this chapter.

(2) The Commissioner, upon finding the State to be in compliance with sections 2606 and 2607 of this title for fiscal years 1982 and 1983 by reviewing the report required to be submitted by the State under section 2613 of this title for fiscal years 1980 and 1981, respectively, shall pay to the State the amount which it is entitled to receive for each of the fiscal years 1982 and 1983 under this chapter reduced in proportion to the extent to which the Commissioner determines that such State has substantially failed to achieve the objectives for fiscal years 1980 and 1981 set forth in its State plan.

(b) Reservation of funds by States; distribution of remainder

Any State receiving funds appropriated under section 2603 of this chapter may reserve (1) not more than 10 per centum of such funds for State leadership purposes described in paragraph (2) of section 2607(a) of this title, and (2) not more than 10 per centum of such funds appropriated for the fiscal year 1979, and not more than 5 per centum of the funds appropriated for succeeding fiscal years, for the purposes described in paragraphs (1) and (4) of section 2607(a) of this title. The remainder of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 2607(a) of this title.

(c) Diminishing Federal share of specified programs

(1) For the purposes of paying the cost of employing State career education coordinators and staff described in paragraph (1) of section 2607(a) of this title, the Federal share of the payments made under this chapter from a State's allotment shall be not more than 100 per centum for the fiscal year 1979, not more than 75 per centum for the fiscal year 1980 and not more than 50 per centum for the fiscal years 1981, 1982, and 1983.

(2) For the purposes described in paragraphs (2) and (3) of section 2607(a) of this title, the Federal share of the payments made under this chapter from a State's allotment shall be not more than 100 per centum for the fiscal years 1979 and 1980, not more than 75 per centum for the fiscal year 1981, not more than 50 per centum for the fiscal year 1982, and not more than 25 per centum for the fiscal year 1983.

(d) Participation of private schools prohibited under State law or not provided for by State or local agencies

(1) If a State is prohibited by law from providing for the participation in programs of children enrolled in private nonprofit elementary and secondary schools, as required by section 2607(c) of this title, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of that section.

(2) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private nonprofit elementary and secondary schools as required by section 2607(c) of this title, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of that section.

(Pub. L. 95-207, § 9, Dec. 13, 1977, 91 Stat. 1469.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2607, 2614 of this title.

§ 2609. Model programs

(a) Grants

From funds reserved under section 2604(a)(2)(A) of this title, the Commissioner is authorized to make grants directly to State and local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models particularly projects designed to eliminate bias and stereotyping on account of race, sex, age, economic status, or handicap.

(b) Other career education model and State and local educational program plan grants

Notwithstanding any other provision of law, no funds may be made available under the provisions of section 1865(f)(1) of this title for grants or contracts with local educational agencies for any fiscal year in which funds are appropriated under this chapter and reserved for the purposes of this section under section 2604(a)(2)(A) of this title.

(Pub. L. 95-207, § 10, Dec. 13, 1977, 91 Stat. 1470.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2605, 2607, 2614 of this title.

§ 2610. Postsecondary educational career demonstration projects

(a) Authorization of grants, contracts, or other arrangements

The Commissioner is authorized to arrange by way of grant, contract, or other arrangement with institutions of higher education, public agencies and nonprofit private organizations for the conduct of postsecondary educational career demonstration projects which—

(1) may have national significance or be of special value in promoting the field of career education in postsecondary educational programs,

(2) have unusual promise of promoting postsecondary career guidance and counseling programs, particularly postsecondary guidance and counseling programs designed to overcome bias and stereotyping on account of race, sex, age, economic status, or handicap, or

(3) show promise of strengthening career guidance, counseling, placement, and follow-up services.

(b) Prerequisite findings

The Commissioner shall approve arrangements under subsection (a) of this section if he finds—

(1) that the funds for which assistance is sought will be used for one of the purposes set forth in subsection (a) of this section, and

(2) that effective procedures, including objective measurements, will be adopted for evaluating at least annually the effectiveness of the project.

(c) Authorization of appropriations

For the purpose of carrying out the provisions of this section there is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983.

(d) Other career education model and State and local educational program plan grants

Notwithstanding any other provision of law, no funds may be made available under the provisions of section 1865(f)(1) of this title for grants or contracts with institutions of higher education for any fiscal year in which funds are appropriated pursuant to subsection (c) of this section.

(Pub. L. 95-207, § 11, Dec. 13, 1977, 91 Stat. 1470.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2603, 2605, 2614 of this title.

§ 2611. Career education information

(a) Furnishing of information on Federal programs to interested parties

In consultation with members of the National Occupational Information Coordinating Committee, the Commissioner shall examine the occupational information needs of individuals and organizations eligible for participation in programs assisted by this chapter. The examination shall consider the present activities of the National Occupational Information Coordinating Committee, the State Occupational Information Coordinating Committees, and other occupational information activities of the Office of Education, the National Institute of Education, the Bureau of Labor Statistics, the Employment and Training Administration, and such other Federal agencies as the Commissioner deems appropriate. Upon the conclusion of the examination, the Commissioner shall, either directly or by way of grant, contract or other arrangement, furnish information to interested parties on Federal programs which gather, analyze and disseminate occupational and career information.

(b) Dissemination of information on exemplary career education programs to interested parties

The Commissioner shall, either directly or by way of grant, contract or other arrangement, disseminate information to interested parties on exemplary career education programs, including but not limited to programs assisted under this chapter.

(Pub. L. 95-207, § 12, Dec. 13, 1977, 91 Stat. 1471.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2605 of this title.

§ 2612. Administration

(a) Office of Career Education

(1) The Office of Career Education created pursuant to section 1865 of this title shall be the administering agency within the Office of Education for the review of the State plans, applications, and reports submitted pursuant to this Act. In addition, the Office of Career Education shall perform a national leadership role in furthering the purposes of this chapter.

(2) The Office of Career Education shall, upon request, provide technical assistance to all participating State educational agencies and to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) National Advisory Council on Career Education

The National Advisory Council on Career Education created pursuant to section 1865 of this title shall perform the same functions with respect to the programs authorized under this chapter as the Council is authorized to perform with respect to the programs authorized under that section.

(c) National Institute of Education

Nothing in this chapter shall be construed to prohibit the National Institute of Education from continuing to carry out its functions in the field of career education. The Assistant Secretary of Health, Education, and Welfare for Education shall assure such cooperation as the Assistant Secretary deems appropriate between the Office of Education and the Institute to identify research and development priorities and, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), to disseminate the results of the research and development undertaken by the Institute.

(d) Additional staff and resources

The Office of Education shall provide the Office of Career Education and the National Advisory Council on Career Education with sufficient staff and resources required to carry out their responsibilities under this chapter and under section 1865 of this title.

(Pub. L. 95-207, § 13, Dec. 13, 1977, 91 Stat. 1471.)

TERMINATION OF ADVISORY COUNCILS

Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2613. Reports

(a) Annual State reports to Commissioner of Education

Unless the Commissioner finds the requirements of this subsection unnecessary, not later than December 31 of each fiscal year each State receiving funds under this chapter shall submit to the Commissioner a report evaluating the programs assisted with funds provided under this chapter for the preceding fiscal year. Such report shall include—

(1) an analysis of the extent to which the objectives set out in the State plan submitted pursuant to section 2605 of this title have been fulfilled during that preceding fiscal year;

(2) a description of the extent to which the State and local educational agencies within the State are using State and local resources to implement these objectives and a description of the extent to which funds received under this chapter have been used to achieve these objectives; and

(3) a description of the exemplary programs funded within the State, including an analysis of the reasons for their success, and a description of the programs which were not successful within the State, including an analysis of the reasons for their failure.

(b) Commissioner's analysis and recommendations to States

The Commissioner, through the Office of Career Education, shall analyze each one of the State reports submitted pursuant to subsection (a) of this section and shall provide to the State no later than three months after the date of such submission an analysis of the report and recommendations for improvement in the operation and administration of programs being provided by the State with funds made available under this chapter.

(c) Comprehensive review by Commissioner; report to Congress no later than September 30, 1982

The Commissioner shall conduct a comprehensive review of a random sample of the State programs funded under this chapter and shall submit a report on such review to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate by no later than September 30, 1982.

(Pub. L. 95-207, § 14, Dec. 13, 1977, 91 Stat. 1472.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2608 of this title.

§ 2614. Definitions

For purposes of this chapter the term—

(1)(A) "career education", for the purposes of this chapter, except for paragraphs (2) and (3) of section 2607(a) of this title and sections 2607(b), 2607(c), 2608, 2609, and 2610 of this title, means the totality of experiences, which are designed to be free of bias and stereotyping (including bias or stereotyping on account of race, sex, age, economic status, or handicap), through which one learns about, and prepares to engage in, work as part of his or her way of living, and through which he or she relates work values to other life roles and choices (such as family life);

(B) "career education", for purposes of paragraphs (2) and (3) of section 2607(a) of this title and sections 2607(b), 2607(c), 2608, 2609, and 2610 of this title, limited to activities involving career awareness, exploration, decisionmaking, and planning, which activities are free of or are designed to eliminate bias and stereotyping (including bias or stereotyping on account of race, sex, age, economic status, or handicap), and shall not include any activities carried out by such agencies involving specific job skill training;

(2) "Commissioner" means the Commissioner of Education;

(3) "handicapped" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities who by reason thereof require special education and related services;

(4) "local educational agency" has the meaning given such term by section 881(f) of this title;

(5) "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) "State educational agency" has the meaning given such term by section 881(k) of this title.

(Pub. L. 95-207, § 15, Dec. 13, 1977, 91 Stat. 1473.)

TITLE 21—FOOD AND DRUGS

CHAPTER 4—ANIMALS, MEATS, AND MEAT AND DAIRY PRODUCTS

SUBCHAPTER III—PREVENTION OF INTRODUCTION AND SPREAD OF CONTAGION

§ 114d-1. Cooperation with public and private organizations and individuals in control and eradication of foot-and-mouth disease, rinderpest, and screw-worm

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 114b, 114c, 129 of this title; title 16 section 1540.

§ 129. Expenses for arrest and eradication of contagious or infectious diseases of animals; transfer of appropriations

The Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases in poultry, and for expenses in accordance with the Act of February 28, 1947, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

(Pub. L. 95-97, title I, § 101, Aug. 12, 1977, 91 Stat. 813.)

REFERENCES IN TEXT

The Act of February 28, 1947, as amended, referred to in text, is act Feb. 28, 1947, ch. 8, 61 Stat. 7, as amended, which enacted sections 114b to 114d-1 of this title and enacted a provision set out as a note under section 114b of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from the Agriculture and Related Agencies Appropriation Act, 1978.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

July 12, 1976, Pub. L. 94-351, title I, § 101, 90 Stat. 854.

CHAPTER 9—FEDERAL FOOD, DRUG, AND COSMETIC ACT

SUBCHAPTER IV—FOOD

Sec.
343a. Health risk statement on vending machines dispensing food containing saccharin; availability and distribution of information respecting health risks of saccharin [New].

SUBCHAPTER I—SHORT TITLE

§ 301. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-203, § 1, Nov. 23, 1977, 91 Stat. 1451, provided that: "This Act [which enacted section 343a of this title, amended sections 321 and 343 of this title, enacted provisions set out as notes under sections 343 and 348 of this title, and amended provisions set out as notes under sections 218 and 289*l*-1 of Title 42, The Public Health and Welfare] may be cited as the 'Saccharin Study and Labeling Act'."

SUBCHAPTER II—DEFINITIONS

§ 321. Definitions; generally

For the purposes of this chapter—

[*See main edition for text of* (*a*) *to* (*y*)]

(z) The term "saccharin" includes calcium saccharin, sodium saccharin, and ammonium saccharin.

(As amended Nov. 23, 1977, Pub. L. 95-203, § 4(b)(3), 91 Stat. 1453.)

AMENDMENTS

1977—Subsec. (z). Pub. L. 95-203 added subsec. (z).

SUBCHAPTER IV—FOOD

§ 343. Misbranded food

A food shall be deemed to be misbranded—

[*See main edition for text of* (*a*) *to* (*n*)]

(o) **Saccharin for immediate consumption**

(1) If it contains saccharin, unless, except as provided in paragraph (2), its label and labeling bear the following statement: "USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS". Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and

color with other printed matter on such label and labeling.

(2) The Secretary may by regulation review and revise or remove the requirement of paragraph (1) if the Secretary determines such action is necessary to reflect the current state of knowledge concerning saccharin.

(p) Saccharin not for immediate consumption

(1) If it contains saccharin and is offered for sale, but not for immediate consumption, at a retail establishment, unless such retail establishment displays prominently, where such food is held for sale, notice (provided by the manufacturer of such food pursuant to paragraph (2) for consumers respecting the information required by subsection (o) of this section to be on food labels and labeling.

(2) Each manufacturer of food which contains saccharin and which is offered for sale by retail establishments but not for immediate consumption shall, in accordance with regulations promulgated by the Secretary pursuant to paragraph (4), take such action as may be necessary to provide such retail establishments with the notice required by paragraph (1).

(3) The Secretary may by regulation review and revise or remove the requirement of paragraph (1) if he determines such action is necessary to reflect the current state of knowledge concerning saccharin.

(4) The Secretary shall by regulation prescribe the form, text, and manner of display of the notice required by paragraph (1) and such other matters as may be required for the implementation of the requirements of that paragraph and paragraph (2). Regulations of the Secretary under this paragraph shall be promulgated after an oral hearing but without regard to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and chapter 5 of title 5. In any action brought for judicial review of any such regulation, the reviewing court may not postpone the effective date of such regulation.

(As amended Nov. 23, 1977, Pub. L. 95-203, § 4(a)(1), (b)(1), 91 Stat. 1452, 1453.)

References in Text

The National Environmental Policy Act of 1969, referred to in subsec. (p)(4), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Amendments

1977—Subsec. (o). Pub. L. 95-203, § 4(a)(1), added subsec. (o).

Subsec. (p). Pub. L. 95-203, § 4(b)(1), added subsec. (p).

Effective Date of 1977 Amendment

Section 4(a)(2) of Pub. L. 95-203 provided that: "The amendment made by paragraph (1) [adding subsec. (o) of this section] shall apply only with respect to food introduced or delivered for introduction in interstate commerce on and after the 90th day after the date of the enactment of this Act [Nov. 22, 1977]."

Section 4(b)(2) of Pub. L. 95-203 provided that: "The amendment made by paragraph (1) [adding subsec. (p) of this section] shall apply with respect to food which is sold in retail establishments on or after the 90th day after the effective date of the regulations of the Secretary of Health, Education, and Welfare under paragraph (p)(4) of the Federal Food, Drug, and Cosmetic Act [subsec. (p)(4) of this section]."

Studies Concerning Carcinogenic and Other Toxic Substances in Food and Impurities in and Toxicity of Saccharin

Section 2 of Pub. L. 95-203 provided that:

"(a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this Act [see Short Title of 1977 Amendment note set out under section 301 of this title] referred to as the 'Secretary') shall arrange, in accordance with subsection (b), for the conduct of a study, based on available information, of—

"(A) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in, food and which have been found to cause cancer in animals;

"(B) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

"(C) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

"(D) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

"(E) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to carcinogenic and other toxic substances used as other than foods.

"(2) The Secretary shall arrange, in accordance with subsection (b), for the conduct of a study to determine, to the extent feasible—

"(A) the chemical identity of any impurities contained in commercially used saccharin,

"(B) the toxicity or potential toxicity of any such impurities, including their carcinogenicity or potential carcinogenicity in humans, and

"(C) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

"(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the 'Academy'), acting through appropriate units, to conduct the studies, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such studies will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

"(2) If the Academy declines the Secretary's request to conduct any such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

"(3) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

"(c)(1) Within 12 months of the date of the enactment of this Act [Nov. 23, 1977] the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (A) the results of the study conducted pursuant to subsection (a)(2) (including supporting data and other materials

provided by the entity which conducted the study), and (B) any action proposed to be taken on the basis of the results of the study.

"(2) Within 15 months of the date of the enactment of this Act [Nov. 23, 1977] the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (A) the results of the studies (including supporting data and other materials provided by the entity which conducted the study) conducted pursuant to subsection (a)(1), (B) the recommendations, if any, of such entity for legislative and administrative action, and (C) such recommendations for legislative action as the Secretary deems necessary.

"(d) For purposes of this section and section 3 [set out as a note under section 348 of this title], the term 'saccharin' includes calcium saccharin, sodium saccharin, and ammonium saccharin."

REPORT TO CONGRESSIONAL COMMITTEES RESPECTING ACTION TAKEN PURSUANT TO SUBSEC. (o)(2)

Section 4(a)(3) of Pub. L. 95-203 provided that: "The Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives any action taken under section 403(o)(2) of the Federal Food, Drug, and Cosmetic Act [subsec. (o)(2) of this section]."

§ 343a. Health risk statement on vending machines dispensing food containing saccharin; availability and distribution of information respecting health risks of saccharin

(a) The Secretary may by regulation require vending machines through which food containing saccharin is sold to bear a statement of the risks to health which may be presented by the use of saccharin. A regulation under this subsection shall require such statement to be located in a conspicuous place on such vending machine and as proximate as possible to the name of each food containing saccharin which is sold through such machine. Any food containing saccharin which is sold in a vending machine which does not meet any applicable requirement promulgated under this subsection shall, for purposes of this chapter, be considered a misbranded food.

(b) The Secretary shall (1) prepare information respecting the nature of the controversy surrounding the use of food containing saccharin, and (2) provide for the distribution of such information for display by retail establishments where such food is sold but not for immediate consumption. The Secretary may review and revise such information if he determines such action is necessary to reflect the current state of knowledge concerning the risks to health presented by the use of saccharin.

(Pub. L. 95-203, § 4(c), (d), Nov. 23, 1977, 91 Stat. 1453, 1454.)

CODIFICATION

Subsecs. (a) and (b) of this section were, in the original, designated as "(c)" and "(d)" and have been editorially changed for codification purposes.

Section was enacted as a part of Pub. L. 95-203, known as the Saccharin Study and Labeling Act and not as a part of act June 25, 1938, ch. 675, 52 Stat. 1040, known as the Federal Food, Drug, and Cosmetic Act, which comprises this chapter.

§ 348. Food additives

MORATORIUM ON AUTHORITY OF SECRETARY WITH RESPECT TO SACCHARIN

Pub. L. 95-203, § 3, Nov. 23, 1977, 91 Stat. 1452, provided that:

"During the 18-month period beginning on the date of the enactment of this Act [Nov. 23, 1977], the Secretary—

"(1) may not amend or revoke the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin and published on March 15, 1977 (section 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), or

"(2) may, except as provided in section 4 [enacting section 343a of this title, amending sections 321 and 343 of this title, and enacting provisions set out as notes under section 343 of this title] and the amendments made by such section, not take any other action under the Federal Food, Drug, and Cosmetic Act [this chapter] to prohibit or restrict the sale or distribution of saccharin, any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin,

solely on the basis of the carcinogenic or other toxic effect of saccharin as determined by any study made available to the Secretary before the date of the enactment of this Act [Nov. 23, 1977] which involved human studies or animal testing, or both."

For definition of "saccharin" as used in this note, see section 2(d) of Pub. L. 95-203, set out as a note under section 343 of this title.

CHAPTER 13—DRUG ABUSE PREVENTION AND CONTROL

SUBCHAPTER I—CONTROL AND ENFORCEMENT

§ 801. Congressional findings and declaration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1456.

§ 802. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 951, 957, 1118 of this title; title 18 sections 1952, 4251; title 19 section 1584; title 26 section 7607; title 28 section 2901; title 29 section 1111; title 31 section 1034; title 42 sections 201, 3411; title 46 section 239a; title 49 section 787.

§ 803. Repealed. Pub. L. 95-137, § 1(b), Oct. 18, 1977, 91 Stat. 1169

Section, Pub. L. 91-513, title II, § 103, Oct. 27, 1970, 84 Stat. 1245, authorized the Bureau of Narcotics and Dangerous Drugs to add, during the fiscal year 1971, 300 agents, together with necessary supporting personnel, and provided for appropriations of $6,000,000 to carry out such addition.

§ 904. Authorization of appropriations

(a) There are authorized to be appropriated $105,000,000 for the fiscal year ending June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, $200,000,000 for the fiscal year ending September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979, for the expenses of the Depart-

ment of Justice in carrying out its functions under this subchapter.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-137, § 1(a), Oct. 18, 1977, 91 Stat. 1169.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-137 substituted "September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979," for "June 30, 1977," and struck out "(other than its expenses incurred in connection with carrying out section 803(a) of this title)".

CHAPTER 16—DRUG ABUSE PREVENTION AND TREATMENT

§ 1103. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1112 of this title.

§ 1112. Director; appointment

The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall not hold office in any department or agency of the United States engaged in any drug traffic prevention function (as defined in section 1103 of this title), whether on an acting basis or otherwise, except on such occasions as may be appropriate in connection with the performance of such duties as may be assigned to him pursuant to section 1132 of this title.

(As amended Pub. L. 95-83, title III, § 311(d), Aug. 1, 1977, 91 Stat. 398.)

AMENDMENTS

1977—Pub. L. 95-83 substituted "any department or agency of the United States engaged in any drug traffic prevention function (as defined in section 1103 of this title)" for "any other department or agency of the United States".

§ 1176. Formula grants

[*See main edition for text of* (a) *to* (d)]

(e) State plans; requirements

Any State desiring to receive a grant under subsection (b)(2) or (b)(3) of this section shall submit to the Secretary, not later than July 15 of each calendar year, a State plan for planning, establishing, conducting, and coordinating projects for the development of more effective drug abuse prevention functions in the State and for evaluating the conduct of such functions in the State. Each State plan shall pertain to the twelve-month period of the State fiscal year which commences in the calendar year in which it is required to be submitted, and—

[*See main edition for text of* (1) *to* (13); (f) *and* (g)]

(As amended Pub. L. 95-83, title III, § 311(a)(3), Aug. 1, 1977, 91 Stat. 397.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-83 substituted in the second sentence "of the State fiscal year which commences in the calendar year" for "commencing October 1 of the calendar year".

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

CHAPTER 6—FOREIGN DIPLOMATIC AND CONSULAR OFFICERS

§ 252. Suits against ministers and their domestics prohibited

INSURANCE COVERAGE OF DIPLOMATIC MISSIONS TO UNITED STATES; REPORTS TO SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PRESIDENT OF THE SENATE

Pub. L. 95-148, title V, § 510(1), (2), Oct. 31, 1977, 91 Stat. 1240, provided in part that:

"It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

"(1) not later than six months after the date of enactment of this section [Oct. 31, 1977], a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

"(2) not later than one year after the date of enactment of this section [Oct. 31, 1977], a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage".

CHAPTER 7—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

Sec.

262c. Commitments for United States contributions to international financial institutions fostering economic development in less developed countries; continuation of participation [New].

262d. Human rights and United States assistance policies with international financial institutions [New].
- (a) Policy goals.
- (b) Policy considerations for Executive Directors of institutions in implementation of duties.
- (c) Annual progress reports.
- (d) Requirements of United States assistance through institutions for projects in recipient countries; listing of assistance categories in annual progress reports.
- (e) Criteria for determination of gross violations of internationally recognized human rights standards.
- (f) Opposition by United States Executive Directors of institutions to financial or technical assistance to violating countries.

262d-1. Congressional statement of policy of human rights and United States assistance policies with international institutions [New].

262e. Comparability of salaries and benefits of employees of international financial institutions with employees of American private business and governmental service [New].

262f. Promotion of development and utilization of light capital technologies and United States assistance policies with international financial institutions; annual report to Congress [New].

262g. Human nutrition in developing countries and United States assistance policies with international financial institutions; declaration of policy; annual report to Congress [New].

276a-2. Conference of the Interparliamentary Union and all other parliamentary conferences; appointment of delegates from Senate; Chairman; Vice Chairman [New].

276a-3. Executive secretary of American group of Interparliamentary Union [New].

276a-4. Auditing of accounts of House and Senate delegations to the Interparliamentary Union; finality and conclusiveness of certificates of Chairman [New].

SUBCHAPTER XI—INTERNATIONAL FINANCE CORPORATION

282i. Increase in capital stock of Corporation; subscription to additional shares; authorization of appropriations [New]

SUBCHAPTER XIII—INTERNATIONAL DEVELOPMENT ASSOCIATION

284n. Additional authorization for payment of United States contribution; authorization of appropriations [New].

SUBCHAPTER XIV—ASIAN DEVELOPMENT BANK

285s. Additional subscription to shares; authorization of appropriations [New].

285t. Additional contribution to special funds; authorization of appropriations [New].

SUBCHAPTER XV—INTERNATIONAL MONETARY FUND AND BANK FOR RECONSTRUCTION AND DEVELOPMENT

286e-1f. Additional increase in capital stock of Bank; subscription to additional shares; authorization of appropriations [New].

SUBCHAPTER XXII—AFRICAN DEVELOPMENT FUND

290g-10. Additional authorization for payment of United States contribution; review of payment and voting structure with other donor nations; authorization of appropriations [New].

§ 262c. Commitments for United States contributions to international financial institutions fostering economic development in less developed countries; continuation of participation

(a) It is the sense of the Congress that—

(1) for humanitarian, economic, and political reasons, it is in the national interest of the United States to assist in fostering eco-

nomic development in the less developed countries of this world;

(2) the development-oriented international financial institutions have proved themselves capable of playing a significant role in assisting economic development by providing to less developed countries access to capital and technical assistance and soliciting from them maximum self-help and mutual cooperation;

(3) this has been achieved with minimal risk of financial loss to contributing countries;

(4) such institutions have proved to be an effective mechanism for sharing the burden among developed countries of stimulating economic development in the less developed world; and

(5) although continued United States participation in the international financial institutions is an important part of efforts by the United States to assist less developed countries, more of this burden should be shared by other developed countries. As a step in that direction, in future negotiations, the United States should work toward aggregate contributions to future replenishments to international financial institutions covered by this Act not to exceed 25 per centum.

(b) The Congress recognizes that economic development is a long-term process needing funding commitments to international financial institutions. It also notes that the availability of funds for the United States contribution to international financial institutions is subject to the appropriations process.

(Pub. L. 95-118, title I, § 101, Oct. 3, 1977, 91 Stat. 1067.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(5), is Pub. L. 95-118, Oct. 3, 1977, 91 Stat. 1067, which enacted this section, sections 262d to 262g, 282i, 284n, 285s, 285t, 286e-1f, and 290g-10 of this title, repealed sections 283y, 284m, and 290g-9 of this title, and enacted provisions set out as notes under this section and section 282i of this title. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

Pub. L. 95-148, title III, § 301, Oct. 31, 1977, 91 Stat. 1238, provided in part that: "It is the sense of the Senate that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

"Asian Development Bank:
"Paid-in capital, 16.3 percent;
"Callable capital, 16.3 percent;
"Asian Development Fund, 22.2 percent;
"African Development Bank:
"Special Fund, 10.6 percent;
"Inter-American Development Bank:
"Paid-in ordinary capital, 34.5 percent;
"Callable ordinary capital, 34.5 percent;
"Paid-in interregional capital, 34.5 percent;
"Callable interregional capital, 34.5 percent;
"Fund for Special Operations, 40 percent;
"International Bank for Reconstruction and Development:
"Paid-in capital, 18.7 percent;
"Callable capital, 18.7 percent;
"International Development Association, 25 percent;
"International Finance Corporation, 23 percent."

STANDARDS FOR HUMAN NEEDS AND PROTECTION OF HUMAN RIGHTS; CONSULTATION FOR DEVELOPMENT OF CRITERIA; REPORT TO CONGRESS

Section 703 of Pub. L. 95-118 provided that:

"(a) The Secretary of State and the Secretary of the Treasury shall initiate a wide consultation designed to develop a viable standard for the meeting of basic human needs and the protection of human rights and a mechanism for acting together to insure that the rewards of international economic cooperation are especially available to those who subscribe to such standards and are seen to be moving toward making them effective in their own systems of governance.

"(b) Not later than one year after the date of enactment of this Act [Oct. 3, 1977], the Secretary of State and the Secretary of the Treasury shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in carrying out this section."

§ 262d. Human rights and United States assistance policies with international financial institutions

(a) Policy goals

The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a consistent pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

(b) Policy considerations for Executive Directors of institutions in implementation of duties

Further, the Secretary of the Treasury shall instruct each Executive Director of the above institutions to consider in carrying out his duties:

(1) specific actions by either the executive branch or the Congress as a whole on individual bilateral assistance programs because of human rights considerations;

(2) the extent to which the economic assistance provided by the above institutions directly benefit the needy people in the recipient country;

(3) whether the recipient country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons or both; and

(4) in relation to assistance for the Socialist Republic of Vietnam, the People's Democratic

Republic of Laos, and Democratic Kampuchea (Cambodia), the responsiveness of the governments of such countries in providing a more substantial accounting of Americans missing in action.

(c) Annual progress reports

The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress toward achieving the goals of this title, including the listing required in subsection (d) of this section.

(d) Requirements of United States assistance through institutions for projects in recipient countries; listing of assistance categories in annual progress reports

The United States Government, in connection with its voice and vote in the institutions listed in subsection (a) of this section, shall seek to channel assistance to projects which address basic human needs of the people of the recipient country. The annual report required under subsection (c) of this section shall include a listing of categories of such assistance granted, with particular attention to categories that address basic human needs.

(e) Criteria for determination of gross violations of internationally recognized human rights standards

In determining whether a country is in gross violation of internationally recognized human rights standards, as defined by the provisions of subsection (a) of this section, the United States Government shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

(f) Opposition by United States Executive Directors of institutions to financial or technical assistance to violating countries

The United States Executive Directors of the institutions listed in subsection (a) of this section are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a)(1) or (2) of this section, unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

(Pub. L. 95-118, title VII, § 701, Oct. 3, 1977, 91 Stat. 1069.)

REFERENCES IN TEXT

This title, referred to in subsec. (c), is title VII (§§ 701-704) of Pub. L. 95-118, Oct. 3, 1977, 91 Stat. 1069, which enacted this section, and section 262e of this title, repealed sections 283y, 284m, and 290g-9 of this title, and enacted provision set out as a note under section 262c of this title. For complete classification of title VII to the Code, see Tables.

EFFECTIVE DATE

Section effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 262d-1. Congressional statement of policy of human rights and United States assistance policies with international institutions

It is the sense of the Congress that, where other means have proven ineffective in promoting international human rights, and except where the President determines that the cause of international human rights is served more effectively by actions other than voting against such assistance or where the assistance is directed to programs that serve the basic needs of the impoverished majority of the country in question, United States representatives to the International Bank for Reconstruction and Development, the International Development Association, the African Development Fund, the Asian Development Bank, and the Inter-American Development Bank should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental human rights.

(Pub. L. 95-148, title V, § 507, Oct. 31, 1977, 91 Stat. 1240.)

§ 262e. Comparability of salaries and benefits of employees of international financial institutions with employees if American private business and governmental service

The President shall direct the United States Executive Directors of such international financial institutions to take all appropriate actions to keep the salaries and benefits of the employees of such institutions to levels comparable to salaries and benefits of employees of private business and the United States Government in comparable positions.

(Pub. L. 95-118, title VII, § 704, Oct. 3, 1977, 91 Stat. 1071.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 262f. Promotion of development and utilization of light capital technologies and United States assistance policies with international financial institutions; annual report to Congress

(a) The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall promote the development and utilization of light capital technologies, otherwise known as intermediate, appropriate, or village technologies, by such international institutions as major facets of their development strategies, with major emphasis on the

production and conservation of energy through light capital technologies.

(b) The Secretary of the Treasury shall report to the Congress not later than six months after October 3, 1977, and annually thereafter on the progress toward achieving the goals of this section. Each report shall include a separate and comprehensive discussion, with examples of specific projects and policies, of each institution's activity in light capital technologies and of United States efforts to carry out subsection (a) of this section with respect to each institution.

(Pub. L. 95-118, title VIII, § 801, Oct. 3, 1977, 91 Stat. 1071.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 262g. Human nutrition in developing countries and United States assistance policies with international financial institutions; declaration of policy; annual report to Congress

(a) The Congress declares it to be the policy of the United States, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank, to combat hunger and malnutrition and to encourage economic development in the developing countries, with emphasis on assistance to those countries that are determined to improve their own agricultural production, by seeking to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country. The United States representatives to the institutions named in this section shall oppose any loan or other financial assistance for establishing or expanding production for export of palm oil, sugar, or citrus crops if such loan or assistance will cause injury to United States producers of the same, similar, or competing agricultural commodity.

(b) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress towards achieving the goals of this section.

(Pub. L. 95-118, title IX, § 901, Oct. 3, 1977, 91 Stat. 1071.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 269a. Central Bureau of the International Map of the World on the Millionth Scale; authorization of appropriations

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following appropriation act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

§ 269b. Inter-American Children's Institute; authorization of appropriations

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

§ 269f. International Bureau of Intellectual Property; authorization of appropriations

ANNUAL APPROPRIATIONS

An annual appropriation to meet obligations of membership in the International Bureau of Intellectual Property was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 269g-1. Authorization of appropriations

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the International Institute for the Unification of Private International Law and the Hague Conference on Private International Law was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 269h. International Union for the Publication of Customs Tariffs; authorization of annual appropriations for expenses

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the International Union for the Publication of Customs Tariffs was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 272a. Authorization of appropriations

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the International Labor Organization was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 273. Pan American Institute of Geography and History; authorization of annual appropriations for membership

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the Pan American Institute of Geography and History was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 274. International Council of Scientific Unions and Associated Unions; authorization of annual appropriations for membership

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the International Council of Scientific Unions and Associated Unions was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

§ 275. International Hydrographic Bureau

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

§ 276. Bureau of Interparliamentary Union; American group; authorization of appropriations; disbursements

There is authorized to be appropriated for fiscal year 1976 and for each subsequent fiscal year—

[*See main edition for text of (1) and (2)*]

Funds made available under paragraph (2) shall be disbursed on vouchers to be approved by the Chairman of the House delegation in the case of delegates from the House of Representatives or the Chairman of the Senate delegation in the case of delegates from the Senate, except that either such Chairman may authorize the executive secretary of the American group to approve such vouchers on his behalf.

(As amended June 15, 1977, Pub. L. 95-45, § 4(d)(1), 91 Stat. 223.)

AMENDMENTS

1977—Pub. L. 95-45 substituted provision directing that funds made available under par. (2) be disbursed on vouchers approved by the Chairman of the House delegation in the case of delegates from the House of Representatives or the Chairman of the Senate delegation in the case of delegates from the Senate, except that either such Chairman may authorize the executive secretary of the American group to approve such vouchers on his behalf for provision directing only that such funds be disbursed on vouchers approved by the president and executive secretary of the American group.

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

§ 276a-1. Conference of the Interparliamentary Union; appointment of delegates from House of Representatives; Chairman; Vice Chairman

There shall be not to exceed twelve delegates from the House of Representatives (at least four of whom shall be from the Committee on International Relations) to each Conference of the Interparliamentary Union, such delegates to be appointed by the Speaker of the House of Representatives. The Chairman or Vice Chairman of the House delegation shall be a member from the Committee on International Relations. The Speaker shall designate the Chairman and the Vice Chairman of the House delegation for each such Conference.

(As amended June 15, 1977, Pub. L. 95-45, § 4(d)(2), 91 Stat. 223.)

AMENDMENTS

1977—Pub. L. 95-45 substituted provisions that, there be not to exceed twelve delegates from the House of Representatives (at least four of whom shall be from the Committee on International Relations) to each Conference of the Interparliamentary Union, such delegates to be appointed by the Speaker of the House of Representatives, that the Chairman or Vice Chairman of the House delegation be a member from the Committee on International Relations, and that the Speaker designate the Chairman and the Vice Chairman of the House delegation for each such Conference for provisions that, after January 1, 1976, there be not to exceed nine delegates from the House of Representatives to each Conference of the Interparliamentary Union, such delegates to be appointed by the Speaker of the House of Representatives, and that not more than five delegates from the House of Representatives to any such Conference be of the same political party.

§ 276a-2. Conference of the Interparliamentary Union and all other parliamentary conferences; appointment of delegates from Senate; Chairman; Vice Chairman

Senate delegates to each conference of the Interparliamentary Union, and to all other parliamentary conferences, shall be designated by the President of the Senate upon recommendations of the majority and minority leaders of the Senate. Unless the President of the Senate, upon the recommendation of the majority leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee. Not fewer than two Senators designated to be in the Senate delegation to each conference of the Interparliamentary Union shall be members of the Committee on Foreign Relations.

(June 28, 1935, ch. 322, § 4, as added June 15, 1977, Pub. L. 95-45, § 4(d)(3), 91 Stat. 223.)

§ 276a-3. Executive secretary of American group of Interparliamentary Union

After December 31, 1977, the executive secretary of the American group of the Interparliamentary Union shall be an officer or employee of the Senate or the House of Representatives and shall be appointed—

(1) by the Chairman of the Senate delegation upon recommendations of the majority and minority leaders of the Senate for service during odd-numbered Congresses; and

(2) by the Chairman of the House delegation for service during even-numbered Congresses.

(June 28, 1935, ch. 322, § 5, as added June 15, 1977, Pub. L. 95-45, § 4(d)(3), 91 Stat. 223.)

§ 276a-4. Auditing of accounts of House and Senate delegations to the Interparliamentary Union; finality and conclusiveness of certificate of Chairman

The certificate of the Chairman of the respective delegation to the Interparliamentary Union (or the certificate of the executive secretary of the American group if the Chairman delegates such authority to him) shall be final and conclusive upon the accounting officers in the auditing of all accounts of the House and Senate delegations to the Interparliamentary Union.

(June 28, 1935, ch. 322, § 6, as added June 15, 1977, Pub. L. 95-45, § 4(d)(3), 91 Stat. 223.)

§ 276b. Repealed. Pub. L. 95-45, § 4(d)(4), June 15, 1977, 91 Stat. 223

Section, act Aug. 25, 1937, ch. 757, 50 Stat. 770, provided that, on and after Aug. 25, 1937, the certificate of the president and executive secretary of the American Group of the Interparliamentary Union be final and conclusive upon the accounting officers in the auditing of all accounts of the Group. See section 276a-4 of this title.

SUBCHAPTER I—CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

§ 276d. United States group; appointment; term; meetings

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually and when Congress is not in session (except that this restriction shall not apply during the first session of the Eighty-sixth Congress or to meetings held in the United States) with representatives of the House of Commons and Senate of the Canadian Parliament for discussion of common problems in the interests of relations between the United States and Canada. Of the Members of the Congress to be appointed for the purposes of this subchapter (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the International Relations Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee).

Such appointments shall be for the period of each meeting of the Canada-United States Interparliamentary group except for the four members of the International Relations Committee and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress.

The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.

(As amended Pub. L. 95-45, § 4(a), June 15, 1977, 91 Stat. 222.)

AMENDMENTS

1977—Pub. L. 95-45 substituted "International Relations Committee" for "Foreign Affairs Committee" as the name of the House Committee from which not less than four of the House appointees must be drawn, added requirement that the appointment of the Senate appointees by the President of the Senate be made upon the recommendations of the majority and minority leaders of the Senate, and added provision that the Chairman or Vice Chairman of the House delegation be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation be a Member from the Foreign Relations Committee.

SUBCHAPTER II—MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

§ 276h. United States group; appointment; term; meetings

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually with representatives of the Chamber of Deputies and Chamber of Senators of the Mexican Congress for discussion of common problems in the interests of relations between the United States and Mexico. Of the Members of the Congress to be appointed for the purposes of this subchapter (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the International Relations Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee). Such appointments shall be for the period of each meeting of the Mexico-United States Interparliamentary group except for the four members of the International Relations Committee, and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress. The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.

(As amended Pub. L. 95-45, § 4(b), June 15, 1977, 91 Stat. 222.)

AMENDMENTS

1977—Pub. L. 95-45 substituted "International Relations Committee" for "Foreign Affairs Committee" as the name of the House Committee from which not less than four of the House appointees must be drawn, added requirement that the appointment of the Senate appointees by the President of the Senate be made upon the recommendations of the majority and minority leaders of the Senate, and added provision that the Chairman or Vice Chairman of the House

delegation be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation be a Member from the Foreign Relations Committee.

SUBCHAPTER IV—INTERNATIONAL BOUNDARY AND WATER COMMISSION

§ 277. International Boundary Commission, United States and Mexico; study of boundary waters

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following Department of State Appropriation Act:
Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 421.

§ 277d-3. Authorization for appropriations; activities for which available; contracts for excess amounts

There are authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of section 3109 of title 5, at rates for individuals not in excess of the maximum daily rate for grade GS-15 of the General Schedule and the United States Commissioner is authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to chapter 51 and subchapter III of chapter 53 of title 5, and the civil-service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn, and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, that, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of section 665 of title 31, and sections 11 and 12 of title 41, or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress.

(As amended Aug. 17, 1977, Pub. L. 95-105, title V, § 514(c), 91 Stat. 862.)

REFERENCES IN TEXT

Grade GS-15, referred to in text, is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1977—Pub. L. 95-105 substituted "the maximum daily rate for grade GS-15 of the General Schedule" for "$100 per diem".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 514(d) of Pub. L. 95-105 provided that: "The amendments made by this section [amending sections 277d-3, 277d-28, and 277d-31 of this title] shall take effect on October 1, 1977."

§ 277d-28. Authorization of appropriations

There is authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, not in excess of $300,000 for the initial cost of the work authorized in sections 277d-26 to 277d-28 of this title, and not to exceed $30,000 based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually thereafter for necessary maintenance.

(As amended Pub. L. 95-105, title V, § 514(b), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Pub. L. 95-105 inserted "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," following "$30,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95-105, set out as an Effective Date of 1977 Amendment note under section 277d-3 of this title.

§ 277d-31. Authorization of appropriations

To defray costs that accrue to the United States under the agreement or agreements referred to in section 277d-30 of this title for the construction, operation, and maintenance of drainage conveyance canal projects, there are authorized to be appropriated to the Department of State for use of the United States Sec-

tion, International Boundary and Water Commission, United States and Mexico, the following amounts:

(1) Not to exceed $690,000 for costs of construction.

(2) Upon completion of construction, not to exceed $25,000 based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually for costs of operation and maintenance.

(As amended Pub. L. 95-105, title V, § 514(a), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-105 inserted "based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," following "$25,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95-105, set out as an Effective Date of 1977 Amendment note under section 277d-3 of this title.

SUBCHAPTER VI—UNITED NATIONS FOOD AND AGRICULTURE ORGANIZATION

§ 279a. Authorization of appropriations for payment of United States expenses in Organization; limitation of contributions

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the Food and Agriculture Organization was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

SUBCHAPTER VII—SOUTH PACIFIC COMMISSION

§ 280b. Authorization of appropriations

ANNUAL APPROPRIATION

An annual appropriation was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

SUBCHAPTER VIII—CARIBBEAN COMMISSION

§ 280i. Authorization of appropriations

ANNUAL APPROPRIATION

An annual appropriation was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

SUBCHAPTER IX—PAN AMERICAN RAILWAY CONGRESS

§ 280k. Authorization of appropriations

ANNUAL APPROPRIATION

An annual appropriation to meet the obligations of membership in the Pan American Railway Congress Association was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

SUBCHAPTER XI—INTERNATIONAL FINANCE CORPORATION

§ 282. Acceptance of membership by United States in International Finance Corporation

CROSS REFERENCES

Advancement of human rights through United States assistance policies with international financial institutions, see section 262d of this title.

§ 282i. Increase in capital stock of Corporation; subscription to additional shares; authorization of appropriations.

(a) The United States Governor of the Corporation is authorized—

(1) to vote for an increase of five hundred and forty thousand shares in the authorized capital stock of the Corporation; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to one hundred and eleven thousand four hundred and ninety-three additional shares of the capital stock of the Corporation: *Provided, however,* That any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $111,493,000 for payment by the Secretary of the Treasury.

(Aug. 11, 1955, ch. 788, § 11, as added Oct. 3, 1977, Pub. L. 95-118, title III, § 301, 91 Stat. 1068.)

EFFECTIVE DATE

Section 1001 of Pub. L. 95-118 provided that: "This Act [which enacted sections 262c to 262g, 282i, 284n, 285s, 285t, 286e-1f, and 290g-10 of this title, repealed sections 283y, 284m, 290g-9 of this title, and enacted provision set out as a note under section 262c of this title] shall take effect on the date of its enactment [Oct. 3, 1977], except that no funds authorized to be appropriated by any amendment contained in title II, III, IV, V, or VI [enacting sections 286e-1f, 282i, 284n, 285s, 285t, or 290g-10 of this title, respectively] may be available for use or obligation prior to October 1, 1977".

SUBCHAPTER XII—INTER-AMERICAN DEVELOPMENT BANK

§ 283. Acceptance of membership by United States in Inter-American Development Bank

CROSS REFERENCES

Advancement of human rights through United States assistance policies with international financial institutions, see section 262d of this title.

§ 283y. Repealed. Pub. L. 95-118, title VII, § 702, Oct. 3, 1977, 91 Stat. 1070

Section, Pub. L. 86-147, § 28, as added Pub. L. 94-302, title I, § 103(a)(1), May 31, 1976, 90 Stat. 592, and amended H. Res. 5, Jan. 4, 1977, set forth provisions relating to United States participation in financial assistance by the Inter-American Development Bank to any country engaging in a consistent pattern of gross

violations of internationally recognized human rights. See section 262d of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

SUBCHAPTER XIII—INTERNATIONAL DEVELOPMENT ASSOCIATION

§ 284. Acceptance of membership by United States in International Development Association

CROSS REFERENCES

Advancement of human rights through United States assistance policies with international financial institutions, see section 262d of this title.

§ 284m. Repealed. Pub. L. 95-118, title VII, § 702, Oct. 3, 1977, 91 Stat. 1070

Section, Pub. L. 86-565, § 15, as added Pub. L. 93-373, § 3, Aug. 14, 1974, 88 Stat. 445, set forth provisions relating to United States participation in loans by the International Development Association to any country developing any nuclear explosive device. See section 262d of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 284n. Additional authorization for payment of United States contribution; authorization of appropriations

(a) The United States Governor is authorized to agree on behalf of the United States to pay to the Association $2,400,000,000 as the United States contribution to the fifth replenishment of the Resources of the Association: *Provided, however,* That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $2,400,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86-565, § 16, as added Pub. L. 95-118, title IV, § 401, Oct. 3, 1977, 91 Stat. 1068.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

SUBCHAPTER XIV—ASIAN DEVELOPMENT BANK

§ 285. Acceptance of membership by United States in Asian Development Bank

CROSS REFERENCES

Advancement of human rights through United States assistance policies with international financial institutions, see section 262d of this title.

§ 285s. Additional subscription to shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated without fiscal year limitation $814,286,250 for payment by the Secretary of the Treasury.

(Pub. L. 89-369, § 22, as added Pub. L. 95-118, title V, § 501, Oct. 3, 1977, 91 Stat. 1068.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 285t. Additional contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $180,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated without fiscal year limitation $180,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89-369, § 23, as added Pub. L. 95-118, title V, § 501, Oct. 3, 1977, 91 Stat. 1069.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

SUBCHAPTER XV—INTERNATIONAL MONETARY FUND AND BANK FOR RECONSTRUCTION AND DEVELOPMENT

§ 286. Acceptance of membership by United States in International Monetary Fund

CROSS REFERENCES

Advancement of human rights through United States assistance policies with international financial institutions, see section 262d of this title.

§ 286c. Congressional authorization needed for certain actions

AMENDMENT OF SECTION

Pub. L. 94-564, §§ 3, 9, Oct. 19, 1976, 90 Stat. 2660, 2661, as amended by Pub. L. 95-147, § 4(a)(1), Oct. 28, 1977, 91 Stat. 1228,

provided that effective upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31-4 of the Board of Governors of the Fund, the first sentence of this section is amended to read as follows:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2, paragraph 4, or paragraph 10 of schedule C of the Articles of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) accept any amendment under article XXVIII of the Articles of Agreement of the Fund or Article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank; or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund."

§ 286e-1f. Additional increase in capital stock of Bank; subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized—

(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the Bank; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to thirteen thousand and five additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $1,568,856,318 for payment by the Secretary of the Treasury.

(July 31, 1945, ch. 339, § 27, as added Oct. 3, 1977, Pub. L. 95-118, title II, § 201, 91 Stat. 1067.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 286f. Obtaining and furnishing information to the Fund

EX. ORD. NO. 10033. REGULATIONS GOVERNING THE PROVIDING OF STATISTICAL INFORMATION TO INTERGOVERNMENTAL ORGANIZATIONS

Ex. Ord. No. 10033, Feb. 8, 1949, 14 F.R. 561, as amended by Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813; Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, provided:

SECTION 1. Except as provided in section 2 hereof, the Secretary of Commerce, hereinafter referred to as the Secretary, (a) shall determine, with the concurrence of the Secretary of State, what statistical information shall be provided in response to official requests received by the United States Government from any intergovernmental organization of which this country is a member, and (b) shall determine which Federal executive agency or agencies shall prepare the statistical information thus to be provided. The statistical information so prepared shall be transmitted to the requesting intergovernmental organization through established channels by the Secretary of State or by any Federal executive agency now or hereafter authorized by the Secretary of State to transmit such information.

SECTION 2. (a) The National Advisory Council on International Monetary and Financial Policies, hereinafter referred to as the National Advisory Council, shall determine, after consultation with the Secretary, what information is essential in order that the United States Government may comply with official requests for information received from the International Monetary Fund or the International Bank for Reconstruction and Development.

(b) The Secretary shall determine which Federal executive agency or agencies shall collect or make available information found essential under section 2(a) hereof.

(c) In the collection of information pursuant to a determination made by the Secretary under section 2(b) hereof in response to a request under article VIII, section 5, of the Articles of Agreement of the International Monetary Fund, the authority conferred on the President by section 8 of the Bretton Woods Agreements Act [this section] to require any person to furnish such information, by subpoena or otherwise, may be exercised by each of the following-named agencies:

Department of Agriculture.
Department of Commerce.
Department of the Interior.
Department of Labor.
Department of the Treasury.
Board of Governors of the Federal Reserve System.
Federal Communications Commission.
Federal Deposit Insurance Corporation.
Federal Power Commission.
Federal Trade Commission.
Interstate Commerce Commission.
Securities and Exchange Commission.
United States Maritime Commission.
United States Tariff Commission [now the United States International Trade Commission].

(d) The information collected or made available under section 2 of this order shall be submitted to the National Advisory Council for review and for presentation to the said Fund or Bank.

(e) As used in this order, the word "person" means an individual, partnership, corporation, or association.

SECTION 3. The Secretary's determination of any matter under section 1 or section 2(b) of this order shall be made after consulting appropriate Federal executive agencies and giving due consideration to any

responsibility now exercised by any of them in relation to an intergovernmental organization.

SECTION 4. This order shall not be construed to authorize the Secretary or the National Advisory Council to provide, or to require any Federal executive agency to provide, to an intergovernmental organization (a) information during any period of time when the agency having primary responsibility for security of the specified information declares that it must be withheld from the intergovernmental organization in the interest of military security, or (b) information which any Federal executive agency is required by law to maintain on a confidential basis.

SECTION 5. The Secretary and the National Advisory Council are authorized to prescribe such regulations as may be necessary to carry out their respective responsibilities under this order.

SECTION 6. To the extent that this order conflicts with any previous Executive order, the provisions of this order shall control.

SEC. 7. The performance of the functions vested in the Secretary by this Order shall be subject to any authority or responsibility vested in the Director of the Office of Management and Budget, including Chapter 35 of Title 44 of the United States Code (the Federal Reports Act).

§ 286k. Further promotion of international economic relations; transmittal of information to congressional committees

(a) In the realization that additional measures of international economic cooperation are necessary to facilitate the expansion and balanced growth of international trade and render most effective the operations of the Fund and the Bank, it is declared to be the policy of the United States to seek to bring about further agreement and cooperation among nations and international bodies, as soon as possible, on ways and means which will best reduce obstacles to and restrictions upon international trade, eliminate unfair trade practices, promote mutually advantageous commercial relations, and otherwise facilitate the expansion and balanced growth of international trade and promote the stability of international economic relations. In considering the policies of the United States in foreign lending and the policies of the Fund and the Bank, particularly in conducting exchange transactions, the Council and the United States representatives on the Fund and the Bank shall give careful consideration to the progress which has been made in achieving such agreement and cooperation.

(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information.

(As amended Oct. 28, 1977, Pub. L. 95-147, § 4(a)(2), 91 Stat. 1228.)

AMENDMENTS

1977—Pub. L. 95-147 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER XVI—UNITED NATIONS ORGANIZATION

§ 287c. Economic and communication sanctions pursuant to United Nations Security Council Resolution

(a) Enforcement measures; importation of Rhodesian chromium

Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Charter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations or rail, sea, air, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law. The President may exempt from such Executive order any shipment of chromium in any form which is in transit to the United States on March 18, 1977.

(b) Penalties

Any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to subsection (a) of this section shall, upon conviction, be find[1] not more than $10,000 or, if a natural person, be imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(c) Steel mill products containing chromium; certificate of origin; regulations; subpenas; certificate exemption; release from customs custody; definitions

(1) During the period in which measures are applied against Southern Rhodesia under subsection (a) of this section pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be re-

[1] So in original. Probably should read "fined".

leased from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin;

unless such release is authorized by the Secretary under paragraph (3)(B) or (C).

(2) The Secretary shall prescribe regulations for carrying out this subsection.

(3)(A) In carrying out this subsection, the Secretary may issue subpenas requiring the attendance and testimony of witnesses and the production of evidence. Any such subpena may, upon application by the Secretary, be enforced in a civil action in an appropriate United States district court.

(B) The Secretary may exempt from the certification requirements of this subsection any shipment of a steel mill product containing chromium in any form which is in transit to the United States on March 18, 1977.

(C) Under such circumstances as he deems appropriate, the Secretary may release from customs custody for entry into the United States, under such bond as he may require, any shipment of a steel mill product containing chromium in any form.

(4) As used in this subsection—

(A) the term "certificate of origin" means such certificate as the Secretary may require, with respect to a shipment of any steel mill product containing chromium in any form, issued by the government (or by a designee of such government if the Secretary is satisfied that such designee is the highest available certifying authority) of the country in which such steel mill product was produced certifying that the steel mill product in such shipment contains no chromium in any form which is of Southern Rhodesian origin; and

(B) the term "Secretary" means the Secretary of the Treasury.

(As amended Mar. 18, 1977, Pub. L. 95-12, § 1, 91 Stat. 22.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-12, § 1(1), added provisions permitting enforcement of any Executive order, issued under this subsection, applying measures against Southern Rhodesia and permitting Presidential exemption from that Executive order of any shipment of chromium in transit to the United States on Mar. 18, 1977.

Subsec. (c). Pub. L. 95-12, § 1(2), added subsec. (c).

SUSPENSION OF AMENDMENT OPERATION BY PRESIDENT; REPORT TO CONGRESS

Section 2 of Pub. L. 95-12 provided that:

"(a) Upon the enactment of this Act [Mar. 18, 1977], the President may suspend the operation of the amendments contained in this Act [amending this section] if he determines that such suspension would encourage meaningful negotiations and further the peaceful transfer of governing power from minority rule to majority rule in Southern Rhodesia. Such suspension shall remain in effect for such duration as deemed necessary by the President.

"(b) If the President suspends the operation of the amendments contained in this Act [amending this section], he shall so report to the Congress. In addition, the President shall report to the Congress when he terminates such suspension.

"(c) If the President suspends the operation of the amendments contained in this Act [amending this section], any reference in those amendments to date of enactment [Mar. 18, 1977] shall be deemed to be a reference to the date on which such suspension is terminated by the President."

EX. ORD. NO. 11419. TRADE AND OTHER TRANSACTIONS INVOLVING SOUTHERN RHODESIA

Ex. Ord. No. 11419, July 29, 1968, 33 F.R. 10837, as amended by Ex. Ord. No. 11978, Mar. 18, 1977, 42 F.R. 15403, provided:

* * * * *

SEC. 4. (a) In carrying out their respective functions and responsibilities under this Order, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall consult with the Secretary of State. Each such Secretary shall consult, as appropriate, with other government agencies and private persons.

* * * * *

(c) The Secretary of the Treasury may exempt from the provisions of this Order, and Executive Order No. 11322, as amended [set out as a note under this section in the 1976 Edition of the Code] any shipment of chromium in any form which is in transit to the United States on March 18, 1977.

* * * * *

§ 287e. Authorization of appropriations; payment of expenses

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

SUBCHAPTER XVII—UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

§ 287r. Authorization of appropriations; payment of expenses

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following Department of State Appropriation Act:

Aug. 2, 1977, Pub. L. 95-86, title I, § 101, 91 Stat. 420.

SUBCHAPTER XX—WORLD HEALTH ORGANIZATION

§ 290b. Authorization of appropriations; payment of salaries and expenses

ANNUAL APPROPRIATIONS

An annual appropriation to meet the obligations of membership in the World Health Organization was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

SUBCHAPTER XXI—INTER-AMERICAN FOUNDATION

§ 290f. Inter-American Foundation

[*See main edition for text of* (a) *to* (r)]

(s) Authorization of appropriation

(1) Notwithstanding any other provision of law, not to exceed an aggregate amount of $50,000,000 of the funds made available for the fiscal years 1970 and 1971 to carry out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] shall be available to carry out the purposes of this section. Funds made available to carry out the purposes of this section under the preceding sentence are authorized to remain available until expended.

(2) There is authorized to be appropriated not to exceed $25,000,000 for each of the fiscal years 1979 and 1980 to carry out the purposes of this section. Amounts appropriated under this paragraph are authorized to remain available until expended.

[*See main edition for text of* (t)]

(As amended Pub. L. 95-105, title V, § 508, Aug. 17, 1977, 91 Stat. 859.)

AMENDMENTS

1977—Subsec. (s). Pub. L. 95-105 designated existing provisions as par. (1) and added par. (2).

SUBCHAPTER XXII—AFRICAN DEVELOPMENT FUND

§ 290g. African Development Fund; United States participation

CROSS REFERENCES

Advancement of human rights through United States assistance policies with international financial institutions, see section 262d of this title.

§ 290g-9. Repealed. Pub. L. 95-118, title VII, § 702, Oct. 3, 1977, 91 Stat. 1070

Section, Pub. L. 94-302, title II, § 211, May 31, 1976, 90 Stat. 595; H. Res. 5, Jan. 4, 1977, set forth provisons relating to United States participation in financial assistance by the African Development Fund to any country engaging in a consistent pattern of gross violations of internationally recognized human rights. See section 262d of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective on Oct. 3, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

§ 290g-10. Additional authorization for payment of United States contribution; review of payment and voting structure with other donor nations; authorization of appropriations

(a) The United States Governor is authorized to contribute on behalf of the United States $50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the African Development Fund provided for in this section there are authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94-302, title II, § 212, as added Pub. L. 95-118, title VI, § 601, Oct. 3, 1977, 91 Stat. 1069.)

EFFECTIVE DATE

Section effective on Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95-118, set out as an Effective Date note under section 282i of this title.

CHAPTER 8—FOREIGN SERVICE BUILDINGS

§ 292. Acquisition of sites and buildings for diplomatic and consular establishments; allotment of space; credit of payments from other than appropriated funds for acquisition of property without regard to limitations of amounts

(a) The Secretary of State is empowered to acquire by purchase or construction in the manner hereinafter provided, within the limits of appropriations made to carry out this chapter, by exchange, in whole or in part, of any building or grounds of the United States in foreign countries and under the jurisdiction and control of the Secretary of State, sites and buildings in foreign capitals and in other foreign cities, and to alter, repair, and furnish such buildings for the use of the diplomatic and consular establishments of the United States, or for the purpose of consolidating within one or more buildings, the embassies, legation, consulates, and other agencies of the United States Government there maintained. The space in such buildings shall be allotted by the Secretary of State among the several agencies of the United States Government.

(b) Payments made for rent or otherwise by the United States from funds other than appropriations made to carry out this chapter may be credited toward the acquisition of property under this chapter without regard to limitations of amounts imposed by this chapter.

(As amended Aug. 17, 1977, Pub. L. 95-105, title I, § 106(a), 91 Stat. 845.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-105, § 106(a)(1), substituted "to carry out" for "pursuant to".

Subsec. (b). Pub. L. 95-105, § 106(a)(2), substituted "to carry out" for "under authority of".

§ 295. Authorization of appropriations; Foreign Service Building Fund; expenditures; foreign currencies

[*See main edition for text of (a) to (g)*]

(h) In addition to amounts authorized before November 29, 1975, there is authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this chapter, and for major alterations of buildings acquired under this chapter, the following sums—

(A) for use in Europe, not to exceed $225,000 for fiscal year 1977;

(B) for use in the Near East and South Asia, not to exceed $12,885,000, of which not to exceed $3,985,000 may be appropriated for fiscal year 1976;

(C) for facilities for the United States Information Agency, not to exceed $3,400,000, of which not to exceed $2,800,000 may be appropriated for fiscal year 1976;

(D) for facilities for agricultural and defense attaché housing, not to exceed $150,000 for fiscal year 1977; and

(E) for facilities for the United States Agency for International Development, not to exceed $17,200,000 for fiscal year 1977; and

(F), (G) Repealed. Pub. L. 95-45, § 3, June 15, 1977, 91 Stat. 221.

[*See main edition for text of (2); (i) and (j)*]

(As amended June 15, 1977, Pub. L. 95-45, § 3, 91 Stat. 221.)

AMENDMENTS

1977—Subsec. (h)(1). Pub. L. 95-45 substituted "$225,000" for "$6,725,000" in the subpar. covering Europe for fiscal year 1977, substituted "$12,885,000" for "$8,005,000" in the subpar. covering the Near East and South Asia for fiscal year 1976, substituted "$3,400,000" for "$3,745,000" in the subpar. covering facilities for the United States Information Agency for fiscal year 1976, substituted "$150,000" for "$420,000" in the subpar. covering facilities for agricultural and defense attaché housing for fiscal year 1977, added subpar. authorizing an appropriation of not to exceed $17,200,000 for facilities for the United States Agency for International Development for fiscal year 1977, and struck out subpars. which had authorized appropriations for Africa, the American Republics, and East Asia for fiscal year 1977.

TRANSFER OF FUNCTIONS

All functions vested in the Secretary of State under subsecs. (d)(1)(F), (f)(1)(F), (g)(1)(F), and (h)(1)(F) of this section were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(18), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Subsec. (h)(1)(F) of this section has been repealed by Pub. L. 95-45, and similar provisions are now contained in subsec. (h)(1)(C) of this section. The United States Information Agency, referred to in subsecs. (d)(1)(F), (f)(1)(F), (g)(1)(F), and (h)(1)(C), was abolished by section 9(a)(1) of Reorg. Plan No. 2 of 1977.

§ 297. Acquisition of property by lease

The authority granted to acquire sites and buildings by purchase or otherwise shall include authority to acquire leaseholds.

(As amended Aug. 17, 1977, Pub. L. 95-105, title I, § 106(b), 91 Stat. 845.)

AMENDMENTS

1977—Pub. L. 95-105 struck out "of not less than ten years" following "acquire leaseholds".

CHAPTER 9—FOREIGN WARS, WAR MATERIALS, AND NEUTRALITY

SUBCHAPTER I—WAR MATERIALS

§ 401. Illegal exportation of war materials

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 408, 408a of this title; title 50 App. section 2405.

SUBCHAPTER II—NEUTRALITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 613, 2393 of this title; title 46 section 1242a.

CHAPTER 11—FOREIGN AGENTS AND PROPAGANDA

SUBCHAPTER II—REGISTRATION OF FOREIGN PROPAGANDISTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 8 section 1251; title 18 section 219; title 50 App. 34.

§ 611. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 618 of this title; title 2 section 441e; title 8 section 1251.

§ 618. Enforcement and penalties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 section 1251.

CHAPTER 14—FOREIGN SERVICE

§ 801. Congressional declaration of objectives

EX. ORD. NO. 11636. EMPLOYEE MANAGEMENT RELATIONS IN THE FOREIGN SERVICE

Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901, as amended by Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851, provided:

* * * * *

ADMINISTRATION

* * * * *

SEC. 5. *Employee-Management Relations Commission.*

(a) There is hereby established, as a committee of the Board, an Employee-Management Relations Commission composed of those Board members or participants representing the Department of Labor, the Civil Service Commission, and the Office of Management and Budget. The representative of the Civil Service Commission shall be the Chairman of the Commission.

* * * * *

§ 861. Division of personnel

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5541.

§ 867. Officers

There shall be ten classes of Foreign Service officers, including the classes of career ambassador and of career minister. The per annum salary of a career ambassador shall be at the rate provided by law for level IV of the Federal Executive Salary Schedule. The per annum salary of a career minister shall be at the rate provided by law for level V of such schedule. The per annum salaries of Foreign Service officers within each of the other classes shall be as follows:

	1	2	3	4	5	6	7
FSO-01	$54,837*	$56,665*	$58,245*				
FSO-02	42,114	43,518	44,922	$46,326	$47,730*	$49,134*	$50,538*
FSO-03	32,836	33,931	35,026	36,121	37,216	38,311	39,406
FSO-04	26,022	26,889	27,756	28,623	29,490	30,357	31,224
FSO-05	20,983	21,682	22,381	23,080	23,779	24,478	25,177
FSO-06	17,231	17,805	18,379	18,953	19,527	20,101	20,675
FSO-07	14,429	14,910	15,391	15,872	16,353	16,834	17,315
FSO-08	12,336	12,747	13,158	13,569	13,980	14,391	14,802

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $47,500.

(As amended Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365.)

AMENDMENTS

1977—The compensation in each step of each Service Officer class was increased effective Oct. 1, 1977 by Ex. Ord. No. 12010. Text of Ex. Ord. No. 12010 is set out as a note under section 5332 of Title 5, Government Organization and Employees.

INCREASE IN RATE OF PER ANNUM SALARY OF FOREIGN SERVICE OFFICERS

Pub. L. 95-105, title IV, § 412(b), Aug. 17, 1977, 91 Stat. 856, provided that:

"(1) The President shall increase the amount of each rate of per annum salary in classes 5 through 8 of Foreign Service officers in the table contained in section 412 of the Foreign Service Act of 1946 (22 U.S.C. 867), by $250.

"(2) Pay may not be paid, by reason of the increase provided under paragraph (1), at a rate in excess of the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) Notwithstanding the provisions of section 414 of the Foreign Service Act of 1946 (22 U.S.C. 869), the rate of per annum salary of a Foreign Service Reserve officer shall not be increased by reason of the increase made by paragraph (1).

"(4) The increase made by reason of paragraph (1) shall apply with respect to pay periods beginning on or after October 1, 1978, and shall be in addition to any increase or adjustment made under subchapter I of chapter 53 of title 5, United States Code."

§ 870. Staff officers and employees; employees recruited abroad performing duties of routine nature

(a) There shall be ten classes of Foreign Service staff officers and employees, referred to hereafter as staff officers and employees. The per annum salaries of such staff officers and employees within each class shall be as follows:

	1	2	3	4	5	6	7	8	9	10
FSS-01	$32,836	$33,931	$35,026	$36,121	$37,216	$38,311	$39,406	$40,501	$41,596	$42,691
FSS-02	26,022	26,889	27,756	28,623	29,490	30,357	31,224	32,091	32,958	33,825
FSS-03	20,983	21,682	22,381	23,080	23,779	24,478	25,177	25,876	26,575	27,274
FSS-04	17,231	17,805	18,379	18,953	19,527	20,101	20,675	21,249	21,823	22,397
FSS-05	15,417	15,931	16,445	16,959	17,473	17,987	18,501	19,015	19,529	20,043
FSS-06	13,802	14,262	14,722	15,182	15,642	16,102	16,562	17,022	17,482	17,942
FSS-07	12,361	12,773	13,185	13,597	14,009	14,421	14,833	15,245	15,657	16,069
FSS-08	11,076	11,445	11,814	12,183	12,552	12,921	13,290	13,659	14,028	14,397
FSS-09	9,927	10,258	10,589	10,920	11,251	11,582	11,913	12,244	12,575	12,906
FSS-10	8,902	9,199	9,496	9,793	10,090	10,387	10,684	10,981	11,278	11,575

[*See main edition for text of (b)*]

(As amended Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365.)

AMENDMENTS

1977—The compensation in each step of each Service Officer class was increased effective Oct. 1, 1977, by

Ex. Ord. No. 12010. Text of Ex. Ord. No. 12010 is set out as a note under section 5332 of Title 5, Government Organization and Employees.

§ 881. Chiefs of missions

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Salary

During the service of a Foreign Service officer or Reserve officer as chief of mission he shall receive, in addition to his salary as Foreign Service officer or Reserve officer, compensation equal to the difference, if any, between such salary and the salary of the position to which he is appointed or assigned.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 401, 91 Stat. 852.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-105 inserted "or Reserve officer" following "Foreign Service officer" in two places.

§ 889. Compensation plans and annuity increases for alien employees; other Government agencies performing functions abroad; continued compensation in cases of imprisonment resulting from employment by United States

[*See main edition for text of* (*a*)]

(b) For the purpose of performing functions abroad, other Government agencies and any other establishments of the Government, including those in the legislative and judicial branches, are authorized to administer alien employee programs in accordance with the applicable provisions of this chapter.

(c)(1) The head of any agency of the United States, including any agency of the legislative or judicial branch of the United States, may compensate any current or former alien employee, including an alien employee who worked under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of an alien employee of the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the alien's employment by the United States. Such compensation may not exceed an amount that such agency head determines approximates the salary and other benefits to which such employee or former employee would have been entitled had he or she remained employed during the period of such imprisonment, and may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of making payments authorized by this subsection, the head of any such agency shall have the same powers with respect to imprisoned alien employees and such former employees as any head of an agency under the provisions of subchapter VII of chapter 55 of title 5 to the extent that such powers are consistent with this paragraph. Any period of imprisonment of an alien which is compensable under this subsection shall be considered for purposes of any other employee benefit to be a period of employment by the United States Government, except that a period of imprisonment shall not be creditable—

(A) for purposes of subchapter III of chapter 83 of title 5 unless the individual either—

(i) was subject to section 8334(a) of such title during the period of his or her Government employment last preceding the imprisonment; or

(ii) qualifies for annuity benefits under such subchapter III by reason of other service; or

(B) for purposes of subchapter I of chapter 81 of title 5 unless the individual was employed by the United States Government at the time of his or her imprisonment.

(2) No compensation or other benefit shall be awarded under paragraph (1) unless a claim therefor is filed within three years after—

(A) August 17, 1977;

(B) the termination of the period of imprisonment giving rise to the claim; or

(C) the date of the claimant's first opportunity to file such a claim, as determined by the appropriate agency head;

whichever is later.

(3) The Secretary of State may prescribe regulations governing payments under this subsection for the guidance of all agencies.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 402(a), (b)(1), 91 Stat. 852.)

CODIFICATION

In subsec. (c)(1)(B) "subchapter I of chapter 81 of title 5" was substituted for "subchapter I of chapter 8 of title 5" as the probable intent of Congress.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-105, § 402(a), inserted "and any other establishments of the Government, including those in the legislative and judicial branches," following "Government agencies".

Subsec. (c). Pub. L. 95-105, § 402(b)(1), added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 402(b)(2) of Pub. L. 95-105 provided that: "The amendment made by paragraph (1) of this subsection [adding subsec. (c) of this section] shall apply with respect to all past, present, and future qualified employees, but no monthly compensation or annuity payment under title 5, United States Code, that may be approved by reason of such amendment shall be effective prior to the first day of the first month which begins on or after the date of enactment of this Act [Aug. 17, 1977] or October 1, 1977, whichever is later. Payments that may be authorized under such amendment, other than annuity or monthly compensation payments referred to in the preceding sentence, shall be paid from funds appropriated after such date of enactment for salaries and expenses."

§ 901. Appointment and assignment by President

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Advice and consent of Senate; recess appointments; special missions exception

On and after July 13, 1972, no person shall be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, unless that person is appointed as an ambassador or minis-

ter in accordance with subsection (a) of this section or clause 3, section 2, of article II of the Constitution, relating to recess appointments, except that the personal rank of ambassador or minister may be conferred by the President in connection with special missions for the President of an essentially limited and temporary nature of not exceeding six months if the President, before conferring such rank, reports in writing to the Committee on Foreign Relations of the Senate his intent to confer such rank and transmits therewith all materials relating to any potential conflicts of interest relevant to such person.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 403, 91 Stat. 853.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-105 added provisions requiring the President, before conferring temporary rank for special missions, to report to the Committee on Foreign Relations of the Senate his intent to confer such rank and any materials relating to any potential conflict of interest.

§ 909. Assignment and transfer

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1226, 1231 of this title.

§ 910. Citizenship requirements

No person shall be eligible for appointment as a Foreign Service officer unless he is a citizen of the United States.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 404, 91 Stat. 853.)

AMENDMENTS

1977—Pub. L. 95-105 struck out "and has been such for at least ten years" following "citizen of the United States".

§ 911. Admission to Class 6, 7, or 8

(a) No person shall be eligible for appointment as a Foreign Service officer of class 8 unless he has passed such written, oral, physical, and other examinations as the Board of Examiners for the Foreign Service may prescribe to determine his fitness and aptitude for the work of the Service and has demonstrated his loyalty to the Government of the United States and his attachment to the principles of the Constitution. The Secretary may furnish the President with the names of those persons who have passed such examinations and are eligible for appointment as Foreign Service officers of class 8.

[*See main edition for text of* (b)]

(c) Foreign Service officer candidates who have passed examinations described in subsection (a) of this section may be appointed by the Secretary, under such regulations as he may prescribe, for a trial period of service as Foreign Service Reserve officers of class 7 or 8. Such appointments shall be limited to a maximum of 48 months, but may be extended for up to 12 additional months if the Secretary deems such extension to be in the public interest. Such Reserve officers may receive promotions up to class 6 for satisfactory performance during such trial period. The Secretary shall furnish the President with the names of such Reserve officers who have demonstrated fitness and aptitude for the work of the Service and whom he recommends for appointment as Foreign Service officers in the class corresponding to their Reserve officer class. The Secretary may terminate the services of such Reserve officers at any time under section 1008 of this title.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 405, 91 Stat. 853.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-105, § 405(2), substituted "Secretary may furnish" for "Secretary shall furnish".

Subsec. (c). Pub. L. 95-105, § 405(3), added subsec. (c).

§ 914. Reassignment to Foreign Service of former ambassadors and ministers

If, within three months of the date of the termination of his services as chief of mission and of any period of authorized leave, a Foreign Service officer, or a Foreign Service Reserve officer who is a participant in the Foreign Service Retirement and Disability System, has not again been appointed or assigned as chief of mission or assigned to another position in accordance with this chapter or any other Act, he shall be retired from the Service and receive retirement benefits in accordance with the provisions of section 1076 of this title.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 406, 91 Stat. 854.)

AMENDMENTS

1977—Pub. L. 95-105 inserted ", or a Foreign Service Reserve officer who is a participant in the Foreign Service Retirement and Disability System," following "Foreign Service officer" and substituted "to another position in accordance with this chapter or any other Act" for "in accordance with the provisions of section 909 of this title".

§ 922. Appointments and assignments to Reserve

Whenever the services of a person who is a citizen of the United States are required by the Service, the Secretary may—

[*See main edition for text of* (1) *and* (2)]

(3) extend the appointment or assignment of any Reserve officer, or continue the services of any such Reserve officer by reappointment without regard to the provisions of section 927 of this title, for not more than five additional years if the Secretary deems it to be in the public interest to continue such officer in the Service, except that the assignment of any Reserve officer under paragraph (2) above may not be extended under the provisions of this paragraph without the consent of the head of the agency concerned; except that the authority contained in this paragraph relating to extending the appointment of any Reserve officer, and to continuing the services of any such Reserve officer by reap-

pointment, shall not be applicable to the Department of State and the International Communication Agency.

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 407, 91 Stat. 854; 1977 Reorg. Plan No. 2, §§ 5, 7(a)(4), 42 F.R. 62461, 91 Stat. 1636, 1637.)

AMENDMENTS

1977—Pub. L. 95-105 struck out "and who has been such for at least five years" following "citizen of the United States" in provisions preceding par. (1).

TRANSFER OF FUNCTIONS

All functions vested in the United States Information Agency, or the Director thereof, which agency was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, under par. (3) of this section or sections 1037a(1) and 1063(a)(4) of this title, were transferred to the Director of the International Communication Agency pursuant to section 7(a)(4) of Reorg. Plan No. 2 of 1977. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to make provision from time to time for the performance of any such transferred function by any officer, employee or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "United States Information Agency" in par. (3).

§§ 929 to 932

TRANSFER OF FUNCTIONS

All functions vested in the Director of the United States Information Agency under sections 929 to 932 of this title were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 946. Appointments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 861, 2679a of this title.

§ 961. Assignments to any Government agency or international organization

[*See main edition for text of* (a)]

(b) Status as foreign service officer or reserve officer

If a Foreign Service officer or Reserve officer shall be appointed by the President, by and with the advice and consent of the Senate, or by the President alone, to a position in any Government agency, any United States delegation or mission to any international organization, in any international commission, or in any international body, the period of his service in such capacity shall be construed as constituting an assignment within the meaning of subsection (a) of this section and such person shall not, by virtue of the acceptance of such an assignment, lose his status as such an officer. Service in such a position shall not, however, be subject to the limitations concerning the duration of an assignment contained in subsection (a) of this section.

[*See main edition for text of* (c) *and* (d)]

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 408, 91 Stat. 854.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-105 inserted "or Reserve officer" preceding "shall be appointed" and substituted "status as such an officer" for "status as a Foreign Service officer".

§ 1004. Selection-out benefits

SPECIAL ANNUITY FOR CERTAIN FOREIGN SERVICE OFFICERS

Pub. L. 95-105, title IV, § 411, Aug. 17, 1977, 91 Stat. 855, provided that:

"(a) Subject to the conditions established in subsection (b), any Foreign Service officer—

"(1) who was retired under section 633(a)(1) of the Foreing Service Act of 1946 [section 1003(a)(1) of this title] before the date of enactment of this section, [Aug. 17, 1977];

"(2) who was not in class 1, 2, or 3 at the time of retirement;

"(3) who was 40 years of age or older at the time of retirement; and

"(4) who had at least 20 years of service, exclusive of credit for unused sick leave, creditable for purposes of section 821 of such Act [section 1076 of this title] at the time of retirement;

shall be entitled to receive retirement benefits in accordance with the provisions of such section 824 [section 1076 of this title] in lieu of any retirement benefits which the officer may be entitled to elect under section 634(b)(2) of such Act [subsec. (b)(2) of this section]. Such retirement benefits shall be paid from the Foreign Service Retirement and Disability Fund and shall be effective on the date the officer reaches age 50, the date of enactment of this section [Aug. 17, 1977], or October 1, 1977, whichever date is latest.

"(b) Retirement benefits may not be paid under this section unless (1) any refund of contributions paid to the officer under section 634(b)(2) of the Foreign Service Act of 1946 [subsec. (b)(2) of this section] is repaid to the Foreign Service Retirement and Disability Fund, with interest, in accordance with sections 811 (d) and (f) of such Act [section 1071 (d) and (f) of this title]; and (2) the service forming the basis for such retirement benefits is not used as the basis for any other retirement benefits under any retirement system.

"(c) In the event that an officer who is entitled to retirement benefits under this section dies before reaching the age of fifty, but after the date of enactment of this section [Aug. 17, 1977], his or her death shall be considered a death in service within the meaning of section 832 of the Foreign Service Act of 1946 [section 1082 of this title], except that no survivor's annuity (other than a survivor's annuity which would be payable under the first complete sentence in section 634(b)(2) of such Act [subsec. (b)(2) of this section] but for the enactment of this section) shall become effective before October 1, 1977.

"(d) An officer entitled to retirement benefits under this section may make the election described in section 821 (b) or (f), as appropriate, of the Foreign Service Act of 1946 [section 1076 (b) or (f) of this title] at any time before reaching the age of fifty or before the end of the sixty-day period beginning on the date of enactment of this section [Aug. 17, 1977], whichever is later."

§ 1008. Termination of limited appointments of Reserve officers and staff officers and employees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 911, 1037a of this title.

§ 1037a. Consideration and resolution of grievances; promulgation of regulations for procedures; criteria

The Secretary shall, consistent with the purposes stated in section 1037 of this title, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or abridge the provisions of due process established by this section for grievants. The regulations shall include, but not be limited to, the following:

(1) Procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not otherwise resolved under agency procedures within ninety days of presentation, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations—

[*See main edition for text of (A)*]

(B) "grievance" shall mean any act or condition subject to the control of the Department of State, International Communication Agency, or the Agency for International Development (hereafter in this part referred to as the foreign affairs agencies, or agencies) which is alleged to deprive the grievant of a right or benefit authorized by law or regulation, or is otherwise a source of concern or dissatisfaction to the grievant; and grievances shall include but not be limited to complaints against separation of an officer or employee allegedly contrary to law or regulation or predicated upon alleged inaccuracy (including inaccuracy resulting from omission of any relevant and material document) or falsely prejudicial character of any part of the grievant's official personnel record; other alleged violation, misinterpretation, or misapplication of applicable law, regulation, or published policy affecting the terms and conditions of the grievant's employment or career status; allegedly wrongful disciplinary action against an employee constituting a reprimand or suspension from official duties; dissatisfaction with any matter subject to the control of the agency with respect to the grievant's physical working environment; alleged inaccuracy, error, or falsely prejudicial material in the grievant's official personnel file; and action alleged to be in the nature of reprisal for an employee's participation in grievance procedures; but grievances shall not include complaints against individual assignments or transfers of Foreign Service officers or employees which are ordered in accordance with law and regulation, judgments of Selection Boards pursuant to section 993 of this title or of equivalent bodies in ranking Foreign Service officers and employees for promotion on the basis of merit or judgments in examinations prescribed by the Board of Examiners pursuant to section 911 or 912 of this title, termination of time limited appointments pursuant to section 1008 of this title and the pertinent regulations prescribed by the employing agency, or any complaints or appeals where a specific statutory appeal procedure exists (other matters not specified in this paragraph may be excluded as grievances only by written agreement of the agencies and the exclusive representative organization);

[*See main edition for text of (C) to (E); (2) to (16)*]

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(4), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the United States Information Agency, or the Director thereof, which agency was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, under par. (1) of this section or sections 922(3) and 1063(a)(4) of this title, were transferred to the Director of the International Communication Agency pursuant to section 7(a)(4) of Reorg. Plan No. 2 of 1977. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to make provision from time to time for the performance of any such transferred function by any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substitute for "United States Information Agency" in par. (1)(B) of this section.

§ 1041. Establishment of the Institute: orientation and language training

LANGUAGE TRAINING FOR FAMILY MEMBERS OF FOREIGN SERVICE PERSONNEL

Pub. L. 95-105, title IV, § 414, Aug. 17, 1977, 91 Stat. 857, provided that:

"(a) It is the sense of Congress that, in order to increase the effectiveness of United States diplomatic representation abroad, the Secretary of State should make greater use of his authority under section 701 of the Foreign Service Act of 1946 [this section] in order to increase the language training opportunities available to the family members of Foreign Service personnel.

"(b) Not later than January 1, 1978, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report discussing—

"(1) actions he has taken in accordance with subsection (a) of this section; and

"(2) any budgetary or other obstacles which prevent the Department of State from making available a comprehensive language training program for the families of Foreign Service personnel."

§ 1063. Participants

(a) The following persons, referred to in this chapter as participants, shall be entitled to the benefits of the System:

[*See main edition for text of (1) to (3)*]

(4) All Foreign Service staff officers and employees appointed by the Secretary of State or the Director of the International Communication Agency with unlimited appointments.

[*See main edition for text of (b)*]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(4), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Director of the United States Information Agency" in subsec. (a)(4), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(4), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the United States Information Agency, or the Director thereof, under subsec. (a)(4) of this section and sections 922(3) and 1037a(1) of this title, to the Director of the International Communication Agency, effective on or before July 1, 1978, at such time as specified by the President.

§ 1071. Rate of contribution

[*See main edition for text of (a) to (c)*]

(d) Special contributions; interest; installment payments

Any participant credited with civilian service after July 1, 1924 (1) for which no retirement contributions, deductions, or deposits have been made, or (2) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited, may make a special contribution to the Fund equal to the following percentages of basic salary received for such services:

Service:	*Percent of basic salary*
From July 1, 1924, to October 15, 1960, inclusive.	5
From October 16, 1960, to December 31, 1969, inclusive	6½
On and after January 1, 1970	7

Notwithstanding the foregoing, a special contribution for prior nondeposit service as a National Guard technician which would be creditable under subchapter III, chapter 83, title 5, toward civil service retirement and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the above schedule multiplied by the percentage of such service that is creditable under section 1091 of this title. Special contributions shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the rate of 4 per centum per annum to December 31, 1976, and at 3 per centum per annum thereafter. No interest shall be charged on special contributions made after the effective date of the Foreign Service Retirement Amendments of 1976 for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments when authorized by the Secretary.

[*See main edition for text of (e) and (f)*]

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 409(a), 91 Stat. 854.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-105 substituted "July 1, 1924" for "July 1, 1921" in the table.

§ 1076. Rate of annuity; election; commencement and termination of payments

[*See main edition for text of (a) to (f)*]

(g) Marriage after retirement

An annuitant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing a reduced annuity with benefit to any surviving spouse who qualifies under section 1064(2) of this title. Receipt by the Secretary of notice of an election under this subsection voids prospectively any election previously made under subsection (f) of this section. The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined as if the election were made under subsection (b)(1) of this section. The annuity reduction or recomputation shall be effective the first day of the month after notice of the election is received by the Secretary.

[*See main edition for text of (h) and (i)*]

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 409(b), 91 Stat. 854.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-105 substituted "unmarried at retirement" for "married at retirement".

§ 1112. Reemployment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2512 of this title.

§ 1199. Repealed. Pub. L. 95-105, title I, § 111(a)(1), Aug. 17, 1977, 91 Stat. 848

Section, R.S. §§ 1735, 1736; acts Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100; June 6, 1972, Pub. L. 92-310, title II, § 227(a), 86 Stat. 207, related to the liability of consular officers for neglect of duty or for malfeasance.

PENDING ACTIONS

Section 111(b) of Pub. L. 95-105 provided that: "The repeals made by subsection (a) [repealing this section] shall not affect suits commenced before the date of enactment of this Act [Aug. 17, 1977]."

CHAPTER 14A—FOREIGN SERVICE INFORMATION OFFICERS CORPS

§ 1221. Establishment

There is established a category of officers of the International Communication Agency (hereinafter referred to as "the Agency") to be known as Foreign Service information officers.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(3), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the Director of the United States Information Agency, which agency was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, under this section were transferred to the Director of the International Communication Agency pursuant to section 7(a)(3) of Reorg. Plan No. 2 of 1977. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to make provision from time to time for the performance of any such transferred function by any officer, employee or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "United States Information Agency" in text.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5541.

§ 1222. Congressional statement of policy

It is the sense of the Congress that the establishment of a permanent career service for officers of the Agency who serve our country throughout the world in a vital function of the foreign relations of the United States is essential to enable the Director of the International Communication Agency (hereinafter referred to as "the Director") to carry out effectively such functions and responsibilities assigned to the Agency.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Director of the United States Information Agency" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the Director of the United States Information Agency under this section to the Director of the International Communication Agency, effective on or before July 1, 1978, at such time as specified by the President.

§§ 1223 to 1231

TRANSFER OF FUNCTIONS

All functions vested in the Director of the United States Information Agency under sections 1123 to 1231 of this title were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1232. Definitions

For the purposes of this chapter the term "Foreign Service officer" when used in the Foreign Service Act of 1946, as amended [22 U.S.C. 801 et seq.], or in any other provision of law shall be construed to mean "Foreign Service information officer" and the term "Secretary of State" when used with respect to authorities applicable to Foreign Service officers shall be construed to mean the Director of the International Communication Agency with respect to Foreign Service information officers.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Director of the United States Information Agency" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the Director of the United States Information Agency under this section to the Director of the International Communication Agency, effective on or before July 1, 1978, at such time as specified by the President.

§§ 1233, 1234

TRANSFER OF FUNCTIONS

All functions vested in the Director of the United States Information Agency under sections 1233 and 1234 of this title were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(3), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

CHAPTER 15—THE REPUBLIC OF THE PHILIPPINES

SUBCHAPTER V—PROPERTY RETAINED BY THE UNITED STATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 40 section 474; title 50 App. section 39.

CHAPTER 18—UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS

SUBCHAPTER I—GENERAL PROVISIONS

§§ 1431, 1432

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1433. Definitions

When used in this chapter, the term—

(1) "Director" means the Director of the International Communication Agency.

(2) "Agency" means the International Communication Agency.

[*See main edition for text of* (3)]

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

Provision defining the term "Director", as used in this chapter, meaning the Director of the International Communication Agency, was substituted in par. (1) for provision defining the term "Secretary", as used in this chapter, meaning the Secretary of State, pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, and the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, provision defining the term "agency" as used in this chapter, meaning the International Communication Agency, was also substituted in par. (2), for provision defining the term "Department", as used in this chapter, meaning the Department of State.

§ 1434. Loyalty check of personnel

No citizen or resident of the United States, whether or not now in the employ of the Government, may be employed or assigned to duties by the Government under this chapter until such individual has been investigated by the Civil Service Commission and a report thereon has been made to the Director. This section shall not apply in the case of any officer appointed by the President by and with the advice and consent of the Senate.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary of State" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1435. Delegation of authority by Director

The Director may delegate, to such officers of the Government as the Director determines to be appropriate, any of the powers conferred upon him by this chapter to the extent that he finds such delegation to be in the interest of the purposes expressed in this chapter and the efficient administration of the programs undertaken pursuant to this chapter.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456 and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1436. Restriction on disclosure of information

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1437. Utilization of private agencies

In carrying out the provisions of this chapter it shall be the duty of the Director to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Director shall encourage participation in carrying out the purposes of this chapter by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1438. Veterans' preference

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions

were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1439. Reports to Congress

The Director shall submit to the Congress annual reports of expenditures made and activities carried on under authority of this chapter, including appraisals and measurements, where feasible, as to the effectiveness of the several programs in each country where conducted.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1440. Regulation of similar type international activities of State Department

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1442. Informational media guaranties

(a) Authorization to make

The Director of the International Communication Agency may make guaranties, in accordance with the provisions of subsection (b) of section 1933 of this title, of investments in enterprises producing or distributing informational media consistent with the national interests of the United States: *Provided*, That the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in sections 1933(b)(4)(A) and 1933(b)(4)(G) of this title.

[*See main edition for text of* (*b*) *to* (*h*)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Director of the United States Information Agency" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, and the Director thereof, under this chapter, to the Director of the International Communication Agency except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title.

SUBCHAPTER II—INTERCHANGE OF PERSONS, KNOWLEDGE, AND SKILLS BETWEEN UNITED STATES AND FOREIGN COUNTRIES

§ 1447. Books and materials

The Director is authorized to provide for interchanges between the United States and other countries of books and periodicals, including government publications, for the translation of such writings, and for the preparation, distribution, and interchange of other educational materials.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456 and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1448. Assistance to certain institutions abroad founded or sponsored by United States citizens

The Director is authorized to provide for assistance to schools, libraries, and community centers abroad, founded or sponsored by citizens of the United States, and serving as demonstration centers for methods and practices employed in the United States. In assisting any such schools, however, the Director shall exercise no control over their educational policies and shall in no case furnish assistance of any character which is not in keeping with the free democratic principles and the established foreign policy of the United States.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1451. Assignment of Government employees to requesting countries; governing regulations

The Director is authorized, when the government of another country is desirous of obtaining the services of a person having special sci-

entific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any citizen of the United States in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the Director finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 1452 of this title, or (3) such government shall have made an advance of funds, property, or services as provided in section 1479 of this title. Nothing in this chapter, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1452. Status and allowances of assigned personnel

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title.

§ 1453. Acceptance of office under foreign governments of assigned personnel; oath of allegiance

Any citizen of the United States while assigned for service to or in cooperation with another government under authority of this chapter may, at the discretion of his Government agency, with the concurrence of the Director, and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this chapter: *Provided, however,* That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1456. Utilization of facilities and personnel of other Government agencies; reimbursement to agencies; report to Congress

The Director is authorized, in carrying on any activity under the authority of this chapter, to utilize, with the approval of the President, the services, facilities, and personnel of the other Government agencies. Whenever the Director shall use the services, facilities, or personnel of any Government agency for activities under authority of this chapter, the Director shall pay for such performance out of funds available to the Director under this chapter, either in advance, by reimbursement, or direct transfer. The Director shall include in each report submitted to the Congress under section 1439 of this title a statement of the services, facilities, and personnel of other Government agencies utilized in carrying on activities under the authority of this chapter, showing the names and salaries of the personnel utilized, or performing services utilized, during the period covered by such report, and the amounts paid to such other agencies under this section as payment for such performance.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1457. Rendition of technical and other services to foreign governments; limitations

A Government agency, at the request of the Director, may perform such technical or other services as such agency may be competent to render for the government of another country desirous of obtaining such services, upon terms and conditions which are satisfactory to the Director and to the head of the Government agency, when it is determined by the Director that such services will contribute to the purposes of this chapter. However, nothing in this chapter shall authorize the performance of services relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1458. Policy governing rendition of services

In authorizing the performance of technical and other services under this subchapter, it is the sense of the Congress (1) that the Director shall encourage through any appropriate Government agency the performance of such services to foreign governments by qualified private American individuals and agencies, and shall not enter into the performance of such services to any foreign government where such services may be performed adequately by qualified private American individuals and agencies and such qualified individuals and agencies are available for the performance of such services; (2) that if such services are rendered by a Government agency, they shall demonstrate the technical accomplishments of the United States, such services being of an advisory, investigative, or instructional nature, or a demonstration of a technical process; (3) that such services shall not include the construction of public works or the supervision of the construction of public works, and that, under authority of this chapter, a Government agency shall render engineering services related to public works only when the Director shall determine that the national interest demands the rendering of such services by a Government agency, but this policy shall not be interpreted to preclude the assignment of individual specialists as advisers to other governments as provided under subchapter III of this chapter, together with such incidental assistance as may be necessary for the accomplishment of their individual assignments.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1461. General authorization

The Director is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Any such information (other than "Problems of Communism" which may continue to be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the agency, at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out below, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President. The Director was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "agency" was substituted for "Department of State".

REORGANIZATION PLAN NO. 8 OF 1953

Eff. Aug. 1, 1953, 18 F.R. 4542, 67 Stat. 642

* * * * *

UNITED STATES INFORMATION AGENCY

§ 1. ESTABLISHMENT OF AGENCY

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639, set out as a note below. Section was amended by act June 28, 1955, ch. 189, § 12(c)(21), 69 Stat. 183 and related to the establishment of the United States Information Agency.]

§ 2. TRANSFER OF FUNCTIONS

(a) Subject to subsection (c) of this section, there are hereby transferred to the Director (1) the functions vested in the Secretary of State by title V of the United States Information and Educational Exchange Act of 1948, as amended [sections 1461 and 1462 of this title], and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act [sections 1447 and 1448 of this title] as is an integral part of information programs under that Act [sections 1431 to 1479 of this title], together with so much of the functions vested in the Secretary of State by other provisions of the said Act [sections 1431 to 1479 of this title] as is incidental to or is necessary for the performance of the functions under title V [sections 1461 and 1462 of this title] and sections 202 and 203 [sections 1447 and 1448 of this title] transferred by this section, and (2) [Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Paragraph related to functions of the Secretary of State with respect to information programs relating to Germany and Austria.]

(b) [Superseded. Reorg. Plan No. 2 of 1977, § 9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Subsection related to the transfer to the Director of functions vested in the Director for Mutual Security by the Mutual Security Act of 1951, as amended, act Oct. 10, 1951, ch. 479, 65 Stat. 373, which related to foreign information programs, as formerly provided for in section 1652 of this title.

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

* * * * *

(3) [Superseded. Reorg. Plan No. 2 of 1977, § 9(b), 42 F.R. 62461, 91 Stat. 1639. Paragraph provided that nothing in subsec. (c) of this section was to affect the functions of the Secretary of State with respect to conducting negotiations with other governments.]

* * * * *

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), 42 F.R. 62461, 91 Stat. 1639. Section related to the performance of transferred functions.]

§ 4. INCIDENTAL TRANSFERS

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), 42 F.R. 62461, 91 Stat. 1639. Section related to incidental transfers.]

§ 5. INTERIM PROVISIONS

[Superseded. Reorg. Plan No. 2 of 1977, § 9(b), 42 F.R. 62461, 91 Stat. 1639. Section related to interim provisions.]

* * * * *

TRANSFER OF FUNCTIONS

All functions vested in the Director of the United States Information Agency under section 2(a)(1) of Reorg. Plan No. 8 of 1953, set out above, were transferred to the Director of the International Communication Agency by section 7(a)(9) of Reorg. Plan No. 2 of 1977, set out in the Appendix to Title 5, effective on or before July 1, 1978, at such time as specified by the President.

REORGANIZATION PLAN NO. 2 OF 1977

42 F.R. 62461, 91 Stat. 1636

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977,[1] pursuant to the provisions of chapter 9 of title 5 of the United States Code.[2]

International Communication Agency

SECTION 1. ESTABLISHMENT OF THE INTERNATIONAL COMMUNICATION AGENCY

There is hereby established in the executive branch an agency to be known as the International Communication Agency (the "Agency").

SEC. 2. DIRECTOR

The Agency shall be headed by a Director (the "Director"), who shall serve as the principal advisor to the President, the National Security Council, and the Secretary of State on the functions vested in the Director. The Director shall report to the President and the Secretary of State. Under the direction of the Secretary of State, the Director shall have primary responsibility within the Government for the exercise of the functions vested in the Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level II of the Executive Schedule [5 U.S.C. 5313].

SEC. 3. DEPUTY DIRECTOR

A Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act for, and exercise the powers of, the Director during the Director's absence or disability or during a vacancy in said office and, in addition, shall perform such duties and exercise such powers as the Director may from time to time prescribe. The Deputy Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level III of the Executive Schedule [5 U.S.C. 5314].

SEC. 4. ASSOCIATE DIRECTORS

The President, by and with the advice and consent of the Senate, may appoint four Associate Directors, who shall perform such duties and exercise such powers as the Director may from time to time prescribe. One Associate Director shall be known as the Associate Director for Educational and Cultural Affairs and one Associate Director shall be known as the Associate Director for Broadcasting. Each Associate Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule [5 U.S.C. 5315].

SEC. 5. PERFORMANCE OF FUNCTIONS

The Director may establish within the Agency bureaus, offices, divisions and other units. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee or unit of the Agency.

SEC. 6. NEGOTIATIONS

(a) Under the direction of the Secretary of State, the Director shall prepare for, manage and conduct negotiations with representatives of foreign states or international organizations on matters for which responsibility is vested in the Director or in the Agency.

(b) For the purpose of conducting such negotiations, or for the purpose of exercising any other authority vested in the Director or in the Agency, the Director may

[1] Actually transmitted October 12, 1977.

[2] As amended November 1, 1977, and November 3, 1977.

(1) consult and communicate with or direct the consultation and communication with representatives of other nations or of international organizations; and

(2) communicate in the name of the Secretary of State with diplomatic representatives of the United States in this country and abroad.

SEC. 7. TRANSFER OF FUNCTIONS

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431-1479), except to the extent that any function in sections 302, 401, or 602 [sections 1452, 1456, or 1467 of this title] is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108 [sections 2452(b)(6), (b)(10), 2454(a), (e)(1), (2), (f), (g), 2455 (a), (b), (c), 2456(a), 2458 of this title]; (B) to the extent that such functions were assigned to the Secretary of Health, Education and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f) [sections 2454(b), 2455(d)(2), (f), 2456 (d), (f) of this title]; and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c) [section 2456(b), (c) of this title].

(3) Public Law 90-494 (22 U.S.C. 929-932, 1221-1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency.

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93-168 [Nov. 29, 1973, 87 Stat. 689];

(6) (A) Sections 107(b), 204 and 205 of the Foreign Relations Authorization Act, Fiscal Year 1978, Public Law 95-105, 91 Stat. 844 [Aug. 17, 1977]; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) The Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c. 138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)), to the extent that such functions are vested in the Secretary of State;

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89-665, as amended by section 201(5) of Public Law 94-422 (16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95-86 (headed "UNITED STATES INFORMATION AGENCY, SALARIES AND EXPENSES"), 91 Stat. 440-41 [Aug. 2, 1977];

(17) The twentieth unnumbered paragraph of title I of Public Law 95-86 (headed "CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST"), 91 Stat. 424;

(18) Sections 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(1)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c. 301, 63 Stat. 408 (22 U.S.C. 2681-2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

(c) The Director shall insure that the scholarly integrity and nonpolitical character of educational and cultural exchange activities vested in the Director are maintained.

SEC. 8. ESTABLISHMENT OF THE UNITED STATES ADVISORY COMMISSION ON INTERNATIONAL COMMUNICATION, CULTURAL AND EDUCATIONAL AFFAIRS

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business and professional backgrounds. Not more than four members shall be from any one political party. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466-1468, 1471(6)), and under sections 106(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency. The Commission's reports to the Congress shall include assessments of the

degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the Director have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO.

Sec. 9. Abolitions and Supersessions

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c. 143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315(22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466–1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c. 841, 70 Stat. 890 (22 U.S.C. 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

Sec. 10. Other Transfers

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, and offices abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Sec. 11. Effective Date

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105), which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be known as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the Government for the conduct of such activities. The Director, the Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this

end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative, or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semiannual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Educational Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this Plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, October 11, 1977.

§ 1461b. Indemnification of owners of short-wave radio facilities against loss or damage

Notwithstanding the provisions of section 665 of title 31, the International Communication Agency is authorized in making contracts for the use of international short-wave radio stations and facilities, to agree on behalf of the United States to indemnify the owners and operators of said radio stations and facilities from such funds as may be hereafter appropriated for the purpose against loss or damage on account of injury to persons or property arising from such use of said radio stations and facilities.

(Pub. L. 95-86, title V, § 501, Aug. 2, 1977, 91 Stat. 441; 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, which agency was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, were transferred to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title, by section 7(a)(1) of Reorg. Plan No. 2 of 1977. The Direc-

tor of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "United States Information Agency" in text.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

July 14, 1976, Pub. L. 94-362, title V, § 501, 90 Stat. 960.

§ 1462. Policies governing information activities

In authorizing international information activities under this chapter, it is the sense of the Congress (1) that the Director shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this chapter shall be construed to give the agency a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of such transferred functions to officers, employees, or units of the International Communication Agency. Accordingly, "agency" was also substituted for "Department".

§ 1463. Voice of America broadcasts; principles governing communications

The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America (the Broadcasting Service of the International Communication Agency) must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

[*See main edition for text of (1) to (3)*]

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, which agency was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, were transferred to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title, by section 7(a)(1) of Reorg. Plan No. 2 of 1977. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "United States Information Agency" in text preceding par. (1).

§ 1466. United States Advisory Commission on International Communication, Cultural and Educational Affairs and United States Advisory Commission on Educational Exchange; creation and duties

There are created two advisory commissions, (1) United States Advisory Commission on International Communication, Cultural and Educational Affairs (hereinafter in this subchapter referred to as the Commission on International Communication, Cultural and Educational Affairs and (2) United States Advisory Commission on Educational Exchange (hereinafter in this subchapter referred to as the Commission on Educational Exchange) to be constituted as provided in section 1467 of this title. The Commissions shall formulate and recommend to the Director policies and programs for the carrying out of this chapter: *Provided, however,* That the commissions created by this section shall have no authority over the Board of Foreign Scholarships or the program created by sections 1619 and 1641 of Appendix to title 50, or the United States National Commission for UNESCO.

(As amended 1977 Reorg. Plan No. 2, §§ 7(a)(1), 8(b), 42 F.R. 62461, 91 Stat. 1637, 1638.)

TRANSFER OF FUNCTIONS

The United States Advisory Commission on Information was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(4), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Section 8(b) of Reorg. Plan No. 2 of 1977 provided that the functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 1466 to 1468 and 1471(6) of this title and sections 2456(b) and 2457 of this title, respectively, were to be consolidated, transferred to, and vested in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8(a) of Reorg. Plan No. 2 of 1977. Accordingly, "United States Advisory Commission on International Communication, Cultural and Educational Affairs" was substituted for "United States Advisory Commission on Information".

"Director" was substituted for "Secretary" pursuant to section 7(a)(1) of Reorg. Plan No. 2 of 1977, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456 and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1467. Commissions

[*See main edition for text of* (a)]

(b) Representation of the public interest on Commission on International Communication, Cultural and Educational Affairs

The members of the Commission on International Communication, Cultural and Educational Affairs shall represent the public interest, and shall be selected from a cross section of professional, business, and public service backgrounds.

[*See main edition for text of* (c) *to* (g)]

(h) Secretarial and clerical assistance

The agency is authorized to provide the necessary secretarial and clerical assistance for the Commissions.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 8(b), 42 F.R. 62461, 91 Stat. 1636-1638.)

TRANSFER OF FUNCTIONS

The United States Advisory Commission on Information was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(4), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Section 8(b) of Reorg. Plan No. 2 of 1977 provided that the functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 1466 to 1468 and 1471(6) of this title and sections 2456(b) and 2457 of this title, respectively, were to be consolidated, transferred to, and vested in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8(a) of Reorg. Plan No. 2 of 1977. Accordingly, "Commission on International Communication, Cultural and Educational Affairs" was substituted for "Commission on Information" in subsec. (b).

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, which agency was abolished by section 9(a)(1) of Reorg. Plan No. 2 of 1977, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, were transferred to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, by section 7(a)(1) of Reorg. Plan No. 2 of 1977. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "agency" was substituted for "Department" in subsec. (h).

§ 1468. Recommendations and reports

The Commissions shall meet not less frequently than once each month during the first six months after their establishment, and thereafter at such intervals as the Commissions find advisable, and shall transmit to the Director a quarterly report, and to the Congress a semiannual report of all programs and activities carried on under the authority of this chapter, including appraisals, where feasible, as to the effectiveness of the several programs, and such recommendations as shall have been made by the Commissions to the Director for effectuating the purposes and objectives of this chapter and the action taken to carry out such recommendations.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

The United States Advisory Commission on Information was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(4), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Section 8(b) of Reorg. Plan No. 2 of 1977 provided that the functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 1466 to 1468 and 1471(6) of this title and sections 2456(b) and 2457 of this title, respectively, were to be consolidated, transferred to, and vested in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8(a) of Reorg. Plan No. 2 of 1977.

"Director" was substituted for "Secretary" pursuant to section 7(a)(1) of Reorg. Plan No. 2 of 1977, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1471. Authority of Director of International Communication Agency

In carrying out the purposes of this chapter, the Director is authorized, in addition to and not in limitation of the authority otherwise vested in him—

[*See main edition for text of* (1) *to* (5)]

(6) to create, with the approval of the Commission on International Communication, Cultural and Educational Affairs and the Commission on Educational Exchange, such advisory committees as the Director may decide to be of assistance in formulating his policies for carrying out the purposes of this chapter. No committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5703 of title 5.

(As amended 1977 Reorg. Plan No. 2, §§ 7(a)(1), 8(b), 42 F.R. 62461, 91 Stat. 1637, 1638.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" in text preceding par. (1) and par. (6) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

The United States Advisory Commission on Information was abolished by section 9(a)(4) of Reorg. Plan

No. 2 of 1977, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Section 8(b) of Reorg. Plan No. 2 of 1977 provided that the functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 1466 to 1468 and 1471(6) of this title and sections 2456(b) and 2457 of this title, respectively, were to be consolidated, transferred to, and vested in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8(a) of Reorg. Plan No. 2 of 1977. Accordingly, "Commission on International Communication, Cultural and Educational Affairs" was substituted for "Commission on Information" in par. (6) of this section.

§ 1472. Authority of International Communication Agency and other Government agencies

In carrying on activities which further the purposes of this chapter, subject to approval of such activities by the Director, the agency and the other Government agencies are authorized—

[*See main edition for text of (1) and (2)*]

(3) under such regulations as the Director may prescribe, to pay the transportation expenses, and not to exceed $10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and the Subsistence Expense Act of 1926, as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" in text preceding par. (1) and par. (3), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions are vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "agency" was substituted for "Department", meaning the Department of State, in text preceding par. (1) of this section.

§ 1473. Use of existing Government property and facilities

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1474. Additional authority of Director of International Communication Agency or other Government agency authorized to administer provisions

In carrying out the provisions of this chapter, the Director, or any Government agency authorized to administer such provisions, may—

(1) employ, without regard to the civil service and classification laws, aliens abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages when suitable qualified United States citizens are not available (such aliens to be investigated for such employment in accordance with procedures established by the Director or such agency and the Attorney General), and such persons may be admitted to the United States, if otherwise qualified as non-immigrants under section 1101(a)(15) of title 8 for such time and under such conditions and procedures as may be established by the Director and the Attorney General;

[*See main edition for text of (2) and (3)*]

(4) obtain insurance on official motor vehicles operated by the Director or such agency in foreign countries, and pay the expenses incident thereto;

[*See main edition for text of (5) to (12)*]

(13) pay travel expenses of employees attending official international conferences, without regard to sections 5701-5708 of title 5, and regulations issued thereunder, but at rates not in excess of comparable allowances approved for such conferences by the Director; and

(14) purchase uniforms, when funds are appropriated therefor.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" in text preceding par. (1) and pars. (1), (4) and (13), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1475. Travel expenses

Appropriated funds made available for any fiscal year to the Director or any Government agency, to carry out the provisions of this chapter, for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel, shall be available for all such expenses in connection

with travel or transportation which begin in that fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed until the following fiscal year.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1475a. Replacement of passenger motor vehicles

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1476. Prior authorizations by Congress

[*See main edition for text of (a) to (d)*]

(e) The provisions of this section shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the International Communication Agency as authorized by law.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof under this chapter, which agency was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(1), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, were transferred to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title, by section 7(a)(1) of Reorg. Plan No. 2 of 1977. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "United States Information Agency" in subsec. (e).

§ 1477. Transfer of funds

The Director shall authorize the transfer to other Government agencies for expenditure in the United States and in other countries, in order to carry out the purposes of this chapter, any part of any appropriations available to the agency for carrying out the purposes of this chapter, for direct expenditure or as a working fund, and any such expenditures may be made under the specific authority contained in this chapter or under the authority governing the activities of the Government agency to which a part of any such appropriation is transferred, provided the activities come within the scope of this chapter.

(As amended 1977 Reorg. Plan No. 2, §§ 5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President. The Director of the International Communication Agency was authorized by section 5 of Reorg. Plan No. 2 of 1977 to delegate the performance of such transferred functions by any officers, employees, or units of the International Communication Agency. Accordingly, "agency" was substituted for "Department", meaning the Department of State.

§ 1477a. Grants for fiscal year 1973; prohibition upon the use of Radio Free Europe and Radio Liberty in fiscal year 1973 of funds appropriated after August 20, 1972

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, or 1467 of this title.

§ 1478. Reimbursement of program expenses from sources other than appropriations; disposition of receipts

The Director shall, when he finds it in the public interest, request and accept reimbursement from any cooperating governmental or private source in a foreign country, or from State or local governmental institutions or private sources in the United States, for all or part of the expenses of any portion of the program undertaken hereunder. The amounts so received shall be covered into the Treasury as miscellaneous receipts.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the Presi-

dent, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 1479. Advancement of funds, property, or services by foreign governments; disposition; availability; return of unexpended balances or property

If any other government shall express the desire to provide funds, property, or services to be used by this Government, in whole or in part, for the expenses of any specific part of the program undertaken pursuant to this chapter, the Director is authorized, when he finds it in the public interest, to accept such funds, property, or services. Funds so received may be established as a special deposit account in the Treasury of the United States, to be available for the specified purpose, and to be used for reimbursement of appropriations or direct expenditure, subject to the provisions of this chapter. Any unexpended balance of the special deposit account and other property received under this section and no longer required for the purposes for which provided shall be returned to the government providing the funds or property.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title, effective on or before July 1, 1978, at such time as specified by the President.

CHAPTER 21—SETTLEMENT OF INTERNATIONAL CLAIMS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 50 App. section 6b.

SUBCHAPTER III—CLAIMS AGAINST BULGARIA, HUNGARY, RUMANIA, ITALY, AND THE SOVIET UNION

§ 1641b. Claims of nationals of the United States; against Bulgaria, Hungary, and Rumania

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641e, 1641i, 1641*l*, 1641o of this title; title 50 App. sections 2017g, 2017h, 2017*l*.

§ 1641i. Payment of awards

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641a, 1641c of this title; title 50 App. section 2017*l*.

CHAPTER 24—MUTUAL SECURITY PROGRAM

§ 1754. Foreign currencies

ABOLITION OF JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (b), was abolished by section 2258 of Title 42, The Public Health and Welfare and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

§ 1819. Repealed. Pub. L. 95-148, title I, § 100, Oct. 31, 1977, 91 Stat. 1232

Section, act Aug. 2, 1955, ch. 491, § 108, 69 Stat. 438, related to an accounting for military assistance funds.

EFFECTIVE DATE OF REPEAL

Section 100 of Pub. L. 95-148 provided in part that the repeal of this section is effective Oct. 1, 1977.

§ 1896b. Colombo Plan Council for Technical Cooperation; authorization

ANNUAL APPROPRIATIONS

Annual appropriations to meet obligations of membership in the Colombo Plan Council for Technical Cooperation were contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 1928. North Atlantic Treaty Organization

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in the North Atlantic Treaty Organization were contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 1928a. North Atlantic Treaty Parliamentary Conference; participation; appointment of United States Group

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other NATO (North Atlantic Treaty Organization) members, for discussion of common problems in the interests of the maintenance of peace and security in the North Atlantic area. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the "United States Group"), half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Committee on International Relations), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate. Not more than seven of the appointees from the Senate shall be of the same political party. The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate dele-

gation shall be a Member from the Foreign Relations Committee.

(As amended June 15, 1977, Pub. L. 95-45, § 4(c), 91 Stat. 222.)

AMENDMENTS

1977—Pub. L. 95-45 increased the size of the United States Group from eighteen to twenty-four, added requirement that not less than four of the appointees from the House of Representatives be from the Committee on International Relations, added requirement that the appointment of the Senate appointees by the President of the Senate be made upon recommendations of the majority and minority leaders of the Senate, substituted requirement that not more than seven of the appointees from the Senate be of the same political party for requirement which had provided that not more than five of the appointees from each of the respective Houses be of the same political party, and added provision that the Chairman or Vice Chairman of the House delegation be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation be a Member from the Foreign Relations Committee.

§ 1928b. Authorization of appropriations

ANNUAL APPROPRIATIONS

An annual appropriation to meet obligations of membership in the North Atlantic Assembly was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

CHAPTER 25—PROTECTION OF VESSELS ON THE HIGH SEAS AND IN TERRITORIAL WATERS OF FOREIGN COUNTRIES

Sec.
1980. Loans for seized commercial fisherman [New].
(a) Authority of Secretary; procedure; terms, conditions, etc.
(b) Investigation; cancellation of loan repayment.
(c) Collection.
(d) "Secretary" defined.
(e) Establishment of fees.

§ 1977. Reimbursement for seized commercial fishermen

[*See main edition for text of (a) to (d)*]

(e) Effective date

The provisions of this section shall be effective until October 1, 1978.

[*See main edition for text of (f)*]

(As amended Nov. 18, 1977, Pub. L. 95-194, § 1, 91 Stat. 1413.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-194 substituted "October 1, 1978" for "October 1, 1977".

§ 1979. Fishermen's Protective Fund

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973, 1975, 1980 of this title.

§ 1980. Loans for seized commercial fisherman

(a) Authority of Secretary; procedure; terms, conditions, etc.

After July 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

(1) he receives an application for a loan under this section after such date;

(2) he reasonably determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation operating within the fishery conservation zone established by sections 1811 and 1812 of title 16; and

(3) the amount of such loss, damage, or destruction exceeds $2,000.

Any such loan—

(A) may be for an amount not exceeding the value of such loss, damage, or destruction;

(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

(C) shall bear interest at a rate not to exceed 3½ per centum per annum; and

(D) shall be subject to such terms and conditions as the Secretary deems necessary and appropriate for the purposes of this section.

The Secretary shall use the Fishermen's Protective Fund created under section 1979 of this title for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring after July 1, 1976 for which claims are not already substantially resolved.

(b) Investigation; cancellation of loan repayment

The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation. If he determines that the owner or operator who received the loan was at fault, the loan shall not continue for its term and shall be repaid within a reasonable time as determined by the Secretary.

(c) Collection

The Secretary, with the assistance of the Attorney General, the Secretary of State, and the claimant, shall take appropriate action, pursuant to the provisions of title 28 to collect on any right assigned to him under subsection (a) of this section. Amounts collected under this subsection shall—

(1) if such loan was canceled pursuant to subsection (b) of this section, be paid into the Fishermen's Protective Fund created under section 1979 of this title, to the extent of the amount so canceled;

(2) if not so canceled, be applied to the repayment of such loan; or

(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

(d) "Secretary" defined

For the purposes of this section, the term "Secretary" means the Secretary of Commerce.

(e) Establishment of fees

The Secretary may from time to time establish by regulation fees to recover the cost of administering this section. Such fees shall be paid by the owner or operator making claims under this section.

(Aug. 27, 1954, ch. 1018, § 10, as added Nov. 18, 1977, Pub. L. 95-194, § 2, 91 Stat. 1413.)

CHAPTER 28—INTERNATIONAL ATOMIC ENERGY AGENCY PARTICIPATION

§ 2022. Purpose of participation; reports to Congress

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

ABOLITION OF JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in text, was abolished by section 2258 of, Title 42, The Public Health and Welfare and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the Committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being tranferred to the respective committees of the House or Senate.

CHAPTER 29—CULTURAL AND TECHNICAL INTERCHANGE CENTERS

§ 2054. Statement of purpose

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(7), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 2055. Duties of Director of International Communication Agency; establishment and operation of educational institution; grants, fellowships, and scholarships; availability of facilities

In order to carry out the purpose of this subchapter the Director of the International Communication Agency (hereinafter referred to as the "Director") shall provide for—

[*See main edition for text of (1) to (4)*]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(7), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" and "Director" were substituted for "Secretary of State" and "Secretary", respectively, in text preceding par. (1), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(7), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency.

§ 2056. Administration

(a) Authority

In carrying out the provisions of this subchapter, the Director may utilize his authority under the provisions of the United States Information and Educational Exchange Act of 1948, as amended [22 U.S.C. 1431 et seq.].

(b) Gifts, bequests, and devises

The Director may, in administering the provisions of this subchapter, accept from public and private sources money and property to be utilized in carrying out the purposes and functions of the Center. In utilizing any gifts, bequests, or devises accepted there shall be available to the Director the same authorities as are available to him in accepting and utilizing gifts, bequests, and devises to the Foreign Service Institute under the provisions of section 809 of this title. For the purposes of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Director under the authority of this subchapter shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

(c) Report to Congress

The Director shall make an annual report to the Congress with respect to his activities under the provisions of this subchapter, and such report shall include any recommendations for needed revisions in this subchapter.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(7), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director" was substituted for "Secretary" in subsecs. (a), (b), and (c), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(7), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, to the Director of the International Communication Agency.

§ 2057. Authorization of appropriations

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(7), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

CHAPTER 32—FOREIGN ASSISTANCE

SUBCHAPTER I—INTERNATIONAL DEVELOPMENT

PART I—DECLARATION OF POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

Sec.
2151n-1. Americans incarcerated abroad; report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate [New].
2151o. Infant nutrition [New].
2151p. Environment and natural resources [New].
2151q. Renewable and unconventional energy technologies [New].
2151r. Sahel development program; planning [New].
(a) Congressional support.
(b) Presidential authorization.
(c) Presidential guidelines.
(d) Authorization of appropriations; comprehensive proposal; submittal to Congressional Committees.
2151s. Sahel development program; implementation [New].
(a) Assistance.
(b) Annual report.
(c) Authorization of appropriations.

PART IX—INTERNATIONAL DISASTER ASSISTANCE

2292j. Romanian relief and rehabilitation [New].
2292k. Turkey relief, rehabilitation, and reconstruction [New].

PART X—ASSISTANCE TO PORTUGAL AND PORTUGUESE COLONIES IN AFRICA GAINING INDEPENDENCE

2294. Balance of payments loan for Portugal [New].
(a) Statement of purpose.
(b) Authority of President.
(c) Authorization of appropriations; availability.

SUBCHAPTER II—MILITARY ASSISTANCE AND SALES

PART IV—SECURITY SUPPORTING ASSISTANCE

2346b. Southern Africa special requirements funds [New].
(a) Availability of moneys; purposes of expenditures; restrictions; Congressional notification by President.
(b) Preparation by President of analysis of developmental needs of region.
(c) Limitations; waiver.
(d) Rhodesian conflict settlement; effect on establishment of Zimbabwe Development Fund.

SUBCHAPTER III—GENERAL AND ADMINISTRATIVE PROVISIONS

PART I—GENERAL PROVISIONS

2372. Prohibition against assistance and sales to Argentina [New].

PART III—MISCELLANEOUS PROVISIONS

2428a. Congressional declaration of policy towards Korea; transmittal of report to Speaker of the House and congressional committees [New].
2429a. Nuclear reprocessing transfers by or to, and nuclear detonations by, recipients of economic, military or security supporting, etc., assistance; prohibitions; exceptions; procedures applicable [New].
2429b. Notification of program changes [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1975, 2601, 2751, 2771, 2773, 2775 of this title; title 7 section 1727b; title 13 section 301; title 40 section 483.

SUBCHAPTER I—INTERNATIONAL DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 290f, 2151, 2151h, 2151k, 2151l 2151n, 2151p, 2162, 2169, 2178, 2179, 2180, 2182a, 2183, 2191, 2192, 2199, 2211, 2218, 2219a, 2221, 2261, 2293, 2354, 2355, 2357, 2358, 2361, 2362, 2368, 2369, 2384, 2385, 2391, 2392, 2395, 2396, 2397, 2399c, 2421, 2427, 2443 of this title.

PART I—DECLARATION OF POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2183, 2293, 2346, 2346b, 2357, 2399d, 2413 of this title.

§ 2151. Congressional statement of policy

(a) Assistance of less developed countries

The Congress declares that the freedom, security, and prosperity of the United States are best sustained in a community of free, secure, and prospering nations. In particular, the Congress recognizes the threat to world peace posed by aggression and subversion wherever they occur, and that ignorance, want, and despas, through private as well as public efforts, assist the people of less developed countries in their efforts to acquire the knowledge and resources essential for development and to build the economic, political, and social institutions which will meet their aspirations for a better life, with freedom, and in peace.

[See main edition for text of second unnumbered paragraph]

The Congress further declares that to achieve the objectives of this chapter, programs authorized by this chapter should be carried out in accordance with the following principles:

[See main edition for text of pars. designated First, Second, and Third]

Fourth, the first objects of assistance shall be to support the efforts of less developed countries to meet the fundamental needs of their peoples for sufficient food, good health, home ownership and decent housing, environment and natural resources, and the opportunity to gain the basic knowledge and skills required to make their own way forward to a brighter future. In supporting these objectives, particular emphasis shall be placed on utilization of resources for food production and voluntary family planning.

[See main edition for text of pars. designated Fifth, Sixth, and Seventh, and last two pars.]

(b) Criteria for restructuring relations

The Congress further finds and declares that, with the help of United States economic assist-

ance, progress has been made in creating a base for the economic progress of the less developed countries. At the same time, the conditions which shaped the United States foreign assistance program in the past have changed. While the United States must continue to seek increased cooperation and mutually beneficial relations with other nations, our relations with the less developed countries must be revised to reflect the new realities. In restructuring our relationships with these countries, the President should place appropriate emphasis on the following criteria:

[*See main edition for text of (1)*]

(2) Future United States bilateral support for development should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries: food production; rural development and nutrition; population planning and health; environment and natural resources; and education, public administration, and human resource development.

[*See main edition for text of (3) to (7); (c)*]

(d) Assessment criteria

(1) Development assistance furnished under this part shall be increasingly concentrated in countries which will make the most effective use of such assistance to help the poor toward a better life (especially such countries which are suffering from the worst and most widespread poverty and are in greatest need of outside assistance). In order to make possible consistent and informed judgments concerning which countries will make the most effective use of such assistance, the President shall propose appropriate criteria and factors to assess the commitment and progress of countries in meeting the objectives set forth in subsection (c) of this section and in other sections of this part. In developing such criteria and factors, the President shall specifically take into account their value in assessing countries' actions which demonstrate genuine concern and effective action for materially improving the lives of the poor and their ability to participate in development, including but not limited to efforts to—

(A) increase agricultural productivity per unit of land through small-farm, labor-intensive agriculture;

(B) reduce infant mortality;

(C) control population growth;

(D) promote greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers; and

(E) reduce rates of unemployment and underemployment.

A report on such proposed criteria and factors shall be transmitted to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate by January 31, 1978.

(2) The President shall endeavor to bring about the adoption of similar criteria and factors by international development organizations in which the United States participates.

(3) Presentation materials submitted to the Congress with respect to assistance under this part, beginning with fiscal year 1977, shall contain detailed information concerning the steps being taken to implement this subsection.

(e) Grants to underdeveloped countries

For the purpose of promoting economic growth in the poorest countries, the President is authorized, notwithstanding any other provision of law, to make assistance under this part available to the relatively least developed countries on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives.

(As amended Pub. L. 95-88, title I, §§ 101, 113(b), Aug. 3, 1977, 91 Stat. 533, 538.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 113(b)(1), added "environment and natural resources" to the enumeration of fundamental needs of the people of less developed countries which development assistance must be used in meeting.

Subsec. (b)(2). Pub. L. 95-88, § 113(b)(2), added "environment and natural resources;" following "population planning and health;".

Subsec. (d). Pub. L. 95-88, § 101(a), substituted provisions under which the President developed the criteria and factors to be used in assessing the commitment and progress of countries in meeting the objectives set forth in subsec. (c) and transmitted a report by Jan. 31, 1978, to the Speaker of the House and to the Committee on Foreign Relations of the Senate for provisions under which the President had established the criteria without Congressional involvement.

Subsec. (e). Pub. L. 95-88, § 101(b), added subsec. (e).

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95-92, § 1, Aug. 4, 1977, 91 Stat. 614, provided that: "This Act [enacting sections 2294, 2346b, 2372, and 2429a of this title, amending sections 2261, 2291a, 2312, 2321h to 2321j, 2346, 2346a, 2347a, 2370, 2391, 2429, 2443, 2753, 2771, 2778, and 2792 of this title, and enacting provisions set out as notes under sections 2151, 2346, 2370, 2406, 2431, and 2751 of this title] may be cited as the 'International Security Assistance Act of 1977'."

Section 1 of Pub. L. 95-88 provided that: "This Act [enacting sections 2151o to 2151s, 2292k, and 2429b of this title and sections 1712, 1713, 1714, and 1727 to 1727f of Title 7, Agriculture, amending sections 2151, 2151a, 2151b, 2151c, 2151d, 2151g, 2151h, 2151i, 2151k, 2151l, 2151m, 2151n, 2174, 2181, 2182, 2182a, 2183, 2222, 2225, 2292a, 2292h, 2357, 2370, 2384, 2385, 2386, 2399c, 2421, and 2427 of this title, section 5315 of Title 5, Government Organization and Employees, and sections 1427, 1431, 1692, 1702, 1703, 1706, 1711, 1721, 1722, 1723, 1726, 1731, and 1736b of Title 7, repealing section 2424 of this title, and enacting provisions set out as notes under sections 2151, 2151b, 2151i, 2174, 2357, and 2384 of this title and sections 1702, 1708, and 1722 of Title 7] may be cited as the 'International Development and Food Assistance Act of 1977'."

NEGOTIATIONS WITH CUBA

Pub. L. 95-105, title V, § 511, Aug. 17, 1977, 91 Stat. 861, provided:

"(a) It is the sense of the Congress that any negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis, and that the vital concerns of the United States with respect to the basic rights and interests of United States citizens whose persons or property are the subject of such negotiations be protected.

"(b) Furthermore, it is the sense of Congress that the Cuban policies and actions regarding the use of its military and paramilitary personnel beyond its borders and its disrespect for the human rights of individuals are among the elements which must be taken into account in any such negotiations."

PROHIBITION ON REPARATIONS FOR VIETNAM; ACCOUNTING OF AMERICANS MISSING IN ACTION

Pub. L. 95-105, title V, § 505, Aug. 17, 1977, 91 Stat. 858, provided that:

"(a) None of the funds authorized to be appropriated in this Act [Pub. L. 95-105, Aug. 17, 1977, 91 Stat. 845] shall be used for the purpose of reparations, aid, or any other form of payment to the Socialist Republic of Vietnam.

"(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam."

AUTHORIZATION AND LIMITATIONS FOR FISCAL YEAR 1977 UNAFFECTED BY PUB. L. 95-92

Pub. L. 95-92, § 21, Aug. 4, 1977, 91 Stat. 623, provided that: "Authorizations of appropriations and limitations of authority applicable to the fiscal year 1977 contained in provisions of law amended by this Act [see Short Title of 1977 Amendment Note for Pub. L. 95-92 set out above] shall not be affected by enactment of this Act."

FUTURE UNITED STATES DEVELOPMENT ASSISTANCE

Section 131 of Pub. L. 95-88 provided that: "It is the sense of the Congress that the United States should increase substantially its assistance for self-help development among the world's poorest people. Such assistance should be provided in accordance with the general policies and principles of chapter 1 of part I of the Foreign Assistance Act of 1961 [this part], with particular emphasis on encouraging and supporting more equitable patterns of economic growth, especially in the poorest countries, and should be coordinated with similar expanded efforts by international organizations, donor nations, and the recipient countries themselves."

ASSISTANCE TO SOCIALIST REPUBLIC OF VIETNAM, CAMBODIA, LAOS, OR CUBA PROHIBITED; PERSONS MISSING-IN-ACTION

Section 132 of Pub. L. 95-88 provided that:

"(a) None of the funds authorized to be appropriated by this Act [see Short Title of 1977 Amendment note for Pub. L. 95-88 set out as a note above] may be used for assistance to or reparations for the Socialist Republic of Vietnam, Cambodia, Laos, or Cuba.

"(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam."

PLAN FOR INCREASED MINORITY BUSINESS PARTICIPATION IN FOREIGN ASSISTANCE ACTIVITIES

Section 133 of Pub. L. 95-88 provided that:

"(a) The Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [this subchapter] shall prepare and transmit to the Congress, not later than 30 days after the date of enactment of this Act [Aug. 3, 1977], a detailed plan for the establishment of a section on minority business within such agency.

"(b) Such plan shall include, but shall not be limited to—

"(1) a description of where the section on minority business will be located in such agency's organizational structure and what relevant lines of authority will be established;

"(2) a listing of the specific responsibilities that will be assigned to the section on minority business to enable it to increase, in a rational and effective manner, participation of minority business enterprises in activities funded by such agency;

"(3) a design for a time-phase system for bringing about expanded minority business enterprise participation, including specific recommendations for percentage allocations of contracts by such agency to minority business enterprises;

"(4) a proposed reporting system that will permit objective measuring of the degree of participation of minority business enterprises in comparison to the total activities funded by such agency;

"(5) a detailed projection of the administrative budgetary impact of the establishment of the section on minority business; and

"(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of minority business enterprises to receive contracts funded by such agency."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2162, 2212, 2346b, 2399c of this title.

§ 2151a. Food and nutrition

(a) General authorization

In order to alleviate starvation, hunger, and malnutrition, and to provide basic services to poor people, enhancing their capacity for self-help, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $745,000,000 for the fiscal year 1977 and $580,000,000 for the fiscal year 1978, which amounts are authorized to remain available until expended.

[*See main edition for text of* (b) *to* (g)]

(h) Assistance to India

Of the funds authorized to be appropriated by this section for the fiscal year 1978, the President is requested to commit up to $60,000,000 for the purposes of assisting India with foreign exchange costs incurred in connection with the construction of grain storage facilities or other purposes specified in this section.

(As amended Pub. L. 95-88, title I, § 102, Aug. 3, 1977, 91 Stat. 534.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 102(a), struck out provisions authorizing appropriations of $291,000,000 for the fiscal year 1974, $500,000,000 for the fiscal year 1975, and $618,800,000 for the fiscal year 1976, and added provisions authorizing the appropriation of $580,000,000 for the fiscal year 1978.

Subsec. (h). Pub. L. 95-88, § 102(b), added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2151d, 2151h, 2151q, 2220a, 2220d of this title; title 7 sections 1706, 1727, 1727b.

§ 2151b. Population planning and health

(a) Assistance; authorization and appropriations

In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the President is authorized to furnish assistance, on such terms

and conditions as he may determine, for population planning. There are authorized to be appropriated to the President for the purposes of this subsection, in addition to funds otherwise available for such purposes, $167,000,000 for the fiscal year 1978, which amount is authorized to remain available until expended.

(b) Health, disease prevention, and environmental sanitation; authorization of appropriations

In order to prevent and combat disease and to help provide health services for the great majority, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for health, disease prevention, and environmental sanitation. There are authorized to be appropriated to the President for the purposes of this subsection, in addition to funds otherwise available for such purposes, $107,700,000 for the fiscal year 1978, which amount is authorized to remain available until expended.

(c) Primary uses of assistance

Assistance provided under this section shall be used primarily for extension of low-cost, integrated delivery systems to provide health and family planning services, especially to rural areas and to the poorest economic sectors, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach; health programs which emphasize disease prevention, environmental sanitation, and health education; and population planning programs which include education in responsible parenthood and motivational programs, as well as delivery of family planning services and which are coordinated with programs aimed at reducing the infant mortality rate, providing better nutrition to pregnant women and infants, and raising the standard of living of the poor.

(d) Administration

(1) Assistance under this part shall be administered so as to give particular attention to the interrelationship between (A) population growth, and (B) development and overall improvement in living standards in developing countries, and to the impact of all programs, projects, and activities on population growth. All appropriate activities proposed for financing under this part shall be designed to build motivation for smaller families in programs such as education in and out of school, nutrition, disease control, maternal and child health services, agricultural production, rural development, and assistance to the urban poor.

(2) The President is authorized to study the complex factors affecting population growth in developing countries and to identify factors which might motivate people to plan family size or space their children.

(As amended Pub. L. 95-88, title I, § 103(a)-(c), Aug. 3, 1977, 91 Stat. 534.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 103(a), transferred to subsec. (b) provisions covering the President's authority to furnish assistance for health purpose and, in the provisions covering population planning remaining in subsec. (a), struck out provisions authorizing the appropriations of $145,000,000 for fiscal year 1974, $165,000,000 for fiscal year 1975, $243,100,000 for fiscal year 1976, and $275,600,000 for fiscal year 1977, struck out provisions requiring that not less than 67 percent of the funds made available under this section be used for population planning, and added provisions authorizing an appropriation of $167,000,000 for fiscal year 1978.

Subsec. (b). Pub. L. 95-88, § 103(a), added subsec. (b), consisting of provisions transferred from subsec. (a) covering the President's authority to furnish assistance for health purposes, added references to disease prevention and environmental sanitation, and added provisions authorizing an appropriation of $107,700,000 for fiscal year 1978. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-88, § 103(b), redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 95-88, § 103(c), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 103(d) of Pub. L. 95-88 provided that: "The amendment made by subsection (a) of this section [amending this section] shall take effect on October 1, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2151d, 2151h, 2151m of this title; title 7 sections 1706, 1727.

§ 2151c. Education and human resources development

(a) General authority

In order to reduce illiteracy, to extend basic education and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $101,800,000 for the fiscal year 1977 and $84,900,000 for the fiscal year 1978, which amounts are authorized to remain available until expended.

[*See main edition for text of* (*b*)]

(c) Educational assistance to Southern Africans

Of the amount authorized to be appropriated by subsection (a) of this section, not less than $1,000,000 shall be available for the fiscal year 1977, and not less than $1,647,000 shall be available for the fiscal year 1978, to support the southern African student program and the southern African training program, for the purpose of providing educational assistance to Southern Africans.

(As amended Pub. L. 95-88, title I, § 104, Aug. 3, 1977, 91 Stat. 535.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 104(a), struck out provisions authorizing appropriations of $90,000,000 for fiscal year 1974, $92,000,000 for fiscal year 1975, and $89,200,000 for fiscal year 1976, and added provisions authorizing an appropriation of $84,900,000 for fiscal year 1978.

Subsec. (c). Pub. L. 95-88, § 104(b), added "for the fiscal year 1977, and not less than $1,647,000 shall be available for the fiscal year 1978," following "shall be available".

§ 2151d. Technical assistance for programs relating to energy, research, reconstruction, and selected development problems; authorization of appropriations; reimbursement of domestic private voluntary agencies for costs of shipment of food and nonfood commodities donated privately

[*See main edition for text of (a)*]

(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $104,500,000 for the fiscal year 1977 and $105,000,000 for the fiscal year 1978, which amounts are authorized to remain available until expended. Of the amounts made available under this section, not less than $30,000,000 shall be available during the period beginning July 1, 1975, and ending September 30, 1977, only for reimbursement to private voluntary agencies of the United States for costs incurred with respect to the shipment of food and nonfood commodities provided through private donations.

(As amended Pub. L. 95-88, title I, § 105, Aug. 3, 1977, 91 Stat. 535.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88 struck out provisions authorizing an appropriation of $99,550,000 for fiscal year 1976 and added provisions authorizing an appropriation of $105,000,000 for fiscal year 1978.

§ 2151e. Intermediate technology

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2151q of this title.

§ 2151g. Transfer of funds

Notwithstanding section 2151f of this title, whenever the President determines it to be necessary for the purposes of this part, not to exceed 15 per centum of the funds made available for any provision of this part may be transferred to, and consolidated with, the funds made available for any other provision of this part, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision. The authority of sections 2360(a) and 2364(a) of this title may not be used to transfer funds made available under this part for use for purposes of any other provision of this chapter, except that the authority of such sections may be used to transfer for the purposes of section 2427 of this title not to exceed five per centum of the amount of funds made available for section 2427(a)(1) of this title.

(As amended Pub. L. 95-88, title I, § 129(b), Aug. 3, 1977, 91 Stat. 543.)

AMENDMENTS

1977—Pub. L. 95-88 provided that the authority under sections 2360(a) and 2364(a) of this title may be used to transfer for the purposes of section 2427 of this title not to exceed five per centum of the amount of funds made available for section 2427(a)(1) of this title.

§ 2151h. Cost-sharing and funding limits

(a) No assistance shall be furnished by the United States Government to a country under sections 2151a through 2151d of this title until the country provides assurances to the President, and the President is satisfied, that such country will provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an "inkind" basis and except that the President may waive this cost-sharing requirement in the case of a project or activity in a country which the agency primarily responsible for administering subchapter I of this chapter determines is relatively least developed based on the United Nations Conference on Trade and Development list of "relatively least developed countries".

(b) Except for grants to countries determined to be relatively least developed based on the United Nations Conference on Trade and Development list of "relatively least developed countries", no grant assistance shall be disbursed by the United States Government under sections 2151a through 2151d of this title for a project, for a period exceeding thirty-six consecutive months, without further justification satisfactory to the Congress and efforts being made to obtain sources of financing within that country and from other foreign countries and multilateral organizations.

(As amended Pub. L. 95-88, title I, § 106, Aug. 3, 1977, 91 Stat. 535.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 106(1), substituted "sections 2151a through 2151d" for "sections 2151a through 2151e".

Subsec. (b). Pub. L. 95-88, § 106(2), added provisions creating an exception for grants to countries determined to be relatively least developed based on the United Nations Conference on Trade and Development list of "relatively least developed countries" and substituted "sections 2151a through 2151d" for "sections 2151a through 2151e".

§ 2151i. Development and use of cooperatives

In order to strengthen the participation of the rural and urban poor in their country's development, high priority shall be given to increasing the use of funds made available under this chapter for technical and capital assistance in the development and use of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life. Not less than $10,000,000 of the funds made available under this chapter for the fiscal year 1978 may be used only for technical assistance to carry out the purposes of this section.

(As amended Pub. L. 95-88, title I, § 107(a), Aug. 3, 1977, 91 Stat. 535.)

AMENDMENTS

1977—Pub. L. 95-88 substituted "technical and capital assistance in the development and use of cooperatives" for "assistance in the development of cooperatives" and "$10,000,000 of the funds made available under this chapter for the fiscal year 1978 may be used only for technical assistance" for "$20,000,000 of such funds shall be used during the fiscal years 1976 and 1977, including the period from July 1, 1976, through September 30, 1976, only for technical assistance".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 107(b) of Pub. L. 95-88 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1977."

§ 2151k. Integrating women into national economies; report

(a) Particular programs, projects, and activities

In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, subchapter I of this chapter shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort.

(b) Report on impact of development programs

The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate a report on the impact of development programs, projects, and activities on the integration of women into the developing economies of countries receiving assistance under subchapter I of this chapter. The report shall include—

(1) an evaluation of progress toward developing an adequate data base on the role of women in the national economies of recipient countries;

(2) a specific description of the efforts undertaken to implement subsection (a) of this section; and

(3) an evaluation of the effectiveness of such efforts.

(c) Time of report

The report required by subsection (b) of this section shall be transmitted not later than one year after August 3, 1977.

(As amended Pub. L. 95-88, title I, § 108, Aug. 3, 1977, 91 Stat. 536.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88 designated existing provisions as subsec. (a) and in subsec. (a) as so designated added provisions relating to a recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries.

Subsecs. (b), (c). Pub. L. 95-88 added subsecs. (b) and (c).

§ 2151*l*. Limiting use of funds for abortions or involuntary sterilizations

(a) None of the funds made available to carry out subchapter I of this chapter shall be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(b) None of the funds made available to carry out subchapter I of this chapter shall be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to practice sterilizations.

(As amended Pub. L. 95-88, title I, § 109, Aug. 3, 1977, 91 Stat. 536.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 109(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-88, § 109(2), added subsec. (b).

§ 2151m. Prohibiting use of funds for certain countries

(a) Assistance furnished under other provisions

None of the funds made available to carry out this part may be used in any fiscal year for any country to which assistance is furnished in such fiscal year under part IV of subchapter II of this chapter (security supporting assistance) or under subchapter V of this chapter (assistance for Middle East peace) unless the Congress has specifically authorized such use of those funds. The specific authorization requirement of this subsection shall be deemed to be satisfied if the purpose for which funds are to be used is described in the presentation materials submitted to the Congress on proposed development assistance programs for the fiscal year in question and the Congress indicates its approval of such use in the legislation authorizing development assistance programs for such fiscal year.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-88, title I, § 110, Aug. 3, 1977, 91 Stat. 536.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88 struck out references to assistance furnished under subchapter IV of this chapter (assistance for relief and reconstruction of South Vietnam, Cambodia, and Laos) and to assistance furnished under section 36 of the Foreign Assistance Act of 1974 and added provisions empowering Congress to make specific authorization for the use of funds which would otherwise be prohibited but for the specific Congressional authorization and spelling out the circumstances under which the specific authorization requirement will be deemed to have been satisfied.

§ 2151n. Human rights and development assistance

[*See main edition for text of* (a) *and* (b)]

(c) Factors considered

In determining whether or not a government falls within the provisions of subsection (a) of this section and in formulating development assistance programs under subchapter I of this chapter, the Administrator shall consider, in

consultation with the Assistant Secretary for Human Rights and Humanitarian Affairs—

(1) the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States; and

(2) specific actions which have been taken by the President or the Congress relating to multilateral or security assistance to a less developed country because of the human rights practices or policies of such country.

(d) Report to Speaker of House and Committee on Foreign Relations of the Senate

The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding—

(1) the status of internationally recognized human rights, within the meaning of subsection (a) of this section, in countries that receive assistance under subchapter I of this chapter; and

(2) the steps the Administrator has taken to alter United States programs under subchapter I of this chapter in any country because of human rights considerations.

(e) Promotion of civil and political rights

Of the funds made available under this part for the fiscal year 1978, not less than $750,000 may be used only for studies to identify, and for openly carrying out programs and activities which will encourage or promote increased adherence to civil and political rights, as set forth in the Universal Declaration of Human Rights, in countries eligible for assistance under this part. None of these funds may be used, directly or indirectly, to influence the outcome of any election in any country.

(As amended Pub. L. 95-88, title I, § 111, Aug. 3, 1977, 91 Stat. 537; Pub. L. 95-105, title I, § 109(a)(2), Aug. 17, 1977, 91 Stat. 846.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-105 substituted "Assistant Secretary" for "Coordinator".

Pub. L. 95-88, § 111(a), added references to the formulation of development assistance programs under this subchapter and the consultation of the Administrator with the Coordinator for Human Rights and Humanitarian Affairs in the introductory provisions, designated the remainder of the existing provisions as par. (1), and added par. (2).

Subsec. (d). Pub. L. 95-88, § 111(a), substituted provisions directing the Secretary of State to transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding the status of internationally recognized human rights in countries that receive development assistance and the steps which the Administrator has taken to alter United States development assistance programs in any country because of human rights considerations for provisions directing the President to transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section.

Subsec. (e). Pub. L. 95-88, § 111(b), added subsec. (e).

§ 2151n-1. Americans incarcerated abroad; report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate

It is the sense of the Congress that the Secretary of State should make every effort to seek the early release of American citizens unjustifiably held in foreign jails, and that he should direct the appropriate consular officers to redouble their efforts for the protection and welfare of imprisoned American citizens abroad. Beginning February 15, 1978, the Secretary of State shall transmit annually to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the number of American citizens in foreign jails, the charges against them, and what measures have been taken to assist these individuals, including his assessment of the performance of embassy and consular personnel in providing such assistance in each foreign country where American citizens are incarcerated.

(Pub. L. 95-105, title I, § 108, Aug. 17, 1977, 91 Stat. 846.)

CODIFICATION

Section was enacted as a part of Pub. L. 95-105, the Foreign Relations Authorization Act, Fiscal Year 1978, and not as a part of Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, the Foreign Assistance Act of 1961, which comprises this chapter.

§ 2151o. Infant nutrition

The President is encouraged (1) to devise and carry out in partnership with developing nations a strategy for programs of nutrition and health improvement for mothers and children, including breast-feeding, and (2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

(Pub. L. 87-195, pt. I, § 117, as added Pub. L. 95-88, title I, § 112, Aug. 3, 1977, 91 Stat. 537.)

§ 2151p. Environment and natural resources

The President is authorized to furnish assistance under subchapter I of this chapter for developing and strengthening the capacity of less developed countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible restore the land, vegetation, water, wildlife, and other resources upon which depend economic growth and human well-being, especially that of the poor.

(Pub. L. 87-195, pt. I, § 118, as added Pub. L. 95-88, title I, § 113(a), Aug. 3, 1977, 91 Stat. 537.)

REFERENCES TO SUBCHAPTER I AS INCLUDING PART IV OF SUBCHAPTER II, SECTIONS 2346 TO 2346b

Part IV of subchapter I (§§ 2241 to 2243) has been repealed. References to part IV of subchapter I, or any sections thereof, are deemed references to part IV of

subchapter II (§§ 2346, 2346a, 2346b), or to appropriate sections thereof. All references to subchapter I are deemed references also to part IV of subchapter II. All references to subchapter II are deemed not to include part IV of subchapter II. See Pub. L. 92-226, pt. II, § 202(b), Feb. 7, 1972, 86 Stat. 27, set out as a note under section 2346 of this title.

§ 2151q. Renewable and unconventional energy technologies

(a)(1) The President is authorized to furnish assistance under this part for cooperative programs with developing countries in energy production and conservation, with particular emphasis on programs in research, development, and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 2151a of this title. Programs under this subsection shall be undertaken, whenever appropriate, in cooperation with the Energy Research and Development Administration or its successor and shall be carried out, to the greatest extent possible, through and in conjunction with activities under section 2151e of this title. These programs shall be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another.

(2) Of the funds made available to carry out this part for the fiscal year 1978, up to $18,000,000 are to be used for carrying out this subsection.

(b)(1) In furtherance of the purposes of this section, the President is authorized to carry out studies to identify the energy needs, uses, and resources which exist in developing countries. The results of the studies conducted under this subsection shall be reported to the Congress by March 1, 1978.

(2) The Agency for International Development, in cooperation with the Energy Research and Development Administration or its successor, shall conduct a review of the options for implementing the purposes of this section, one of which shall be a proposal for a nonprofit Government corporation (which would be designated as the International Energy Institute) outside the Agency for International Development. The President shall submit a comprehensive report on such review to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate by January 31, 1978, together with his recommendations as to which option should be implemented.

(Pub. L. 87-195, pt. I, § 119, as added Pub. L. 95-88, title I, § 114, Aug. 3, 1977, 91 Stat. 538.)

TRANSFER OF FUNCTIONS

The functions vested by law in the Energy Research and Development Administration or in the Administrator, officers, and components of the Energy Research and Development Administration were transferred to and vested in the Secretary of Energy, unless otherwise specifically provided, as part of the creation of the Department of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See section 7151 of Title 42, The Public Health and Welfare.

§ 2151r. Sahel development program; planning

(a) Congressional support

The Congress reaffirms its support of the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.

(b) Presidential authorization

The President is authorized to develop a long-term comprehensive development program for the Sahel and other drought-stricken nations in Africa.

(c) Presidential guidelines

In developing this long-term program, the President shall—

(1) consider international coordination for the planning and implementation of such program;

(2) seek greater participation and support by African countries and organizations in determining development priorities; and

(3) begin such planning immediately.

(d) Authorization of appropriations; comprehensive proposal; submittal to Congressional Committees

There is authorized to be appropriated to the President, to carry out the purposes of this section, in addition to funds otherwise available for such purposes, $5,000,000 for the fiscal year 1976, which amount is authorized to remain available until expended. The President shall submit to the Foreign Relations and Appropriations Committees of the Senate and the International Relations and Appropriations Committees of the House of Representatives not later than April 30, 1976, a comprehensive proposal for carrying out the provisions of this section which shall include budget materials relating to programs for the fiscal year 1977.

(Pub. L. 87-195, pt. I, § 120, formerly pt. III, § 639B, as added Pub. L. 93-189, § 20, Dec. 17, 1973, 87 Stat. 725, renumbered pt. I, § 494B, and amended Pub. L. 94-161, title I, § 101(5), (7), Dec. 20, 1975, 89 Stat. 850, and renumbered pt. I, § 120, and amended Pub. L. 95-88, title I, § 115(1), (2), Aug. 3, 1977, 91 Stat. 539.)

CODIFICATION

Section was formerly classified to sections 2292e and 2399-1b of this title.

AMENDMENTS

1977—Pub. L. 95-88, § 115(2), substituted "Sahel" for "African" in the section catchline.

1975—Pub. L. 94-161, § 101(7)(A), deleted "Sahel" following "African" in section heading.

Subsec. (a). Pub. L. 94-161, § 101(7)(B), (C), designated existing provisions as subsec. (a) and substituted "Congress reaffirms its support of" for "Congress supports".

Subsecs. (b) to (d). Pub. L. 94-161, § 101(7)(D), added subsecs. (b) to (d).

§ 2151s. Sahel development program; implementation

(a) Assistance

The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the long-term development of the Sahelian region. Assistance furnished under this section shall be in accordance with a long-term, multidonor development plan which calls for equitable burdensharing with other donors and shall be furnished, whenever appropriate, in cooperation with an international coordinating mechanism.

(b) Annual report

The President shall prepare an annual report on the Sahel Development Program concerning the allocation of the United States contribution to the Program, the extent of the contributions from other donor countries, the effectiveness of the integrated effort through the Club des Amis du Sahel, and the progress made in achieving the objectives of the Program.

(c) Authorization of appropriations

There are authorized to be appropriated to the President for purposes of this section beginning in the fiscal year 1978, in addition to funds otherwise available for such purposes, $200,000,000, except that not to exceed $50,000,000 may be appropriated under this section for the fiscal year 1978. Amounts appropriated under this section are authorized to remain available until expended.

(Pub. L. 87-195, pt. I, § 121, as added Pub. L. 95-88, title I, § 115(3), Aug. 3, 1977, 91 Stat. 539.)

PART II—DEVELOPMENT ASSISTANCE

SUBPART II—TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

§ 2174. American schools, libraries, and hospital centers abroad

[*See main edition for text of (a) and (b)*]

(c) Authorization of appropriations

To carry out the purposes of this section, there are authorized to be appropriated to the President for the fiscal year 1977, $25,000,000, and for the fiscal year 1978, $25,000,000, which amounts are authorized to remain available until expended.

(d) Authorization of appropriations of funds available in foreign currencies in excess of normal requirements

There are authorized to be appropriated to the President to carry out the purposes of this section, in addition to funds otherwise available for such purposes, for each of the fiscal years 1977 and 1978, $7,000,000, in foreign currencies which the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

[*See main edition for text of (e)*]

(f) Pediatric plastic and reconstructive surgery centers

Notwithstanding the provisions of subsection (b) of this section, funds appropriated under this section may be used for assistance to centers for pediatric plastic and reconstructive surgery established by Children's Medical Relief International, except that assistance may not be furnished for the domestic operations of any such center located in the United States, its territories or possessions.

(As amended Pub. L. 95-88, title I, § 116(a), Aug. 3, 1977, 91 Stat. 539.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-88, § 116(a)(1), struck out provisions authorizing appropriations of $19,000,000 for each of the fiscal years 1974 and 1975 and $25,000,000 for fiscal year 1976 and added provisions authorizing an appropriation of $25,000,000 for fiscal year 1978.

Subsec. (d). Pub. L. 95-88, § 116(a)(2), struck out provisions authorizing appropriations of $6,500,000 for each of the fiscal years 1974 and 1975 and an appropriation of $7,000,000 for fiscal year 1976 and added provisions authorizing an appropriation of $7,000,000 for fiscal year 1978.

Subsec. (f). Pub. L. 95-88, § 116(b), added subsec. (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 116(b) of Pub. L. 95-88 provided that: "The amendment made by subsection (a)(3) [enacting subsec. (f) of this section] shall not apply to funds appropriated before the date of enactment of this Act [Aug. 3, 1977]."

SUBPART III—HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 2429b of this title.

§ 2181. Worldwide housing guaranties

In order to facilitate and increase the participation of private enterprise in furthering the development of the economic resources and productive capacities of less developed friendly countries and areas, and promote the development of thrift and credit institutions engaged in programs of mobilizing local savings for financing the construction of self-liquidating housing projects and related community facilities, the President is authorized to issue guaranties, on such terms and conditions as he shall determine, to eligible investors as defined in section 2198(c) of this title, assuring against loss of loan investments for self-liquidating housing projects. Such guaranties shall be issued under the conditions set forth in section 2182(b), section 2182(c), and section 2183 of this title.

(As amended Pub. L. 95-88, title I, § 117(a)(1), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Pub. L. 95-88 struck out provisions that the total face amount of guaranties issued under this section outstanding at any one time not exceed $430,000,000 and added section 2182(c) of this title to the enumeration of sections setting out the conditions under which guaranties shall be issued.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2182, 2183 of this title; title 12 sections 1432, 1464.

§ 2182. Housing projects in Latin American countries

[*See main edition for text of (a) and (b)*]

(c) Limitations on investment guaranties

The total face amount of guaranties issued hereunder or heretofore under Latin American housing guaranty authority repealed by the Foreign Assistance Act of 1969 or under section 2181 of this title, outstanding at any one time, shall not exceed $1,030,000,000: *Provided*, That $325,000,000 of such guaranties may be used only for the purposes of subsection (b)(1) of this section.

(As amended Pub. L. 95-88, title I, § 117(a)(2), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-88 added "or under section 2181 of this title" following "Latin American housing guaranty authority repealed by the Foreign Assistance Act of 1969" and substituted "$1,030,000,000" for "$600,000,000".

§ 2182a. Agricultural and productive credit and self-help community development programs

[*See main edition for text of (a) to (g)*]

(h) Termination of authority

The authority of this section shall continue until September 30, 1978.

[*See main edition for text of (i) and (j)*]

(As amended Pub. L. 95-88, title I, § 117(b)(1), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-88 substituted "September 30, 1978" for "December 31, 1977".

§ 2183. General provisions

[*See main edition for text of (a)*]

(b) Accumulated and existing fees; expenditure of fees

The amount of $50,000,000 of fees accumulated under prior investment guaranty provisions repealed by the Foreign Assistance Act of 1969, together with all fees collected in connection with guaranties issued under section 2181 or 2182 of this title or under prior housing guaranty authorities, shall be available for meeting necessary administrative and operating expenses of carrying out the provisions of section 2181 and section 2182 of this title and of prior housing guaranty provisions repealed by the Foreign Assistance Act of 1969 (including, but not limited to expenses pertaining to personnel, supplies, and printing), subject to such limitations as may be imposed in annual appropriation Acts; for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guaranties made pursuant to section 2181 or 2182 of this title or heretofore pursuant to prior Latin American and other housing guaranty authorities repealed by the Foreign Assistance Act of 1969; and to pay the cost of investigating and adjusting (including costs of arbitration) claims under such guaranties; and shall be available for expenditure in discharge of liabilities under such guaranties until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this subsection. Fees collected in connection with guaranties issued under section 2182a of this title shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section.

[*See main edition for text of (c) to (h)*]

(i) Expiration of authority

The authority of section 2181 and section 2182 of this title shall continue until September 30, 1979.

(j) Guaranties for housing projects; percentage requirement for families with income below median income; face value and average face value fiscal year limitations; face amount for Israel and Portugal

Guaranties shall be issued under sections 2181 and 2182 of this title only for housing projects which (1) except for regional projects, are in countries which are receiving, or which in the previous two fiscal years have received, development assistance under part I of this subchapter, (2) are coordinated with and complementary to such assistance, and (3) are specifically designed to demonstrate the feasibility and suitability of particular kinds of housing or of financial or other institutional arrangements. Of the aggregate face value of housing guaranties hereafter issued under this subpart, not less than 90 per centum shall be issued for housing suitable for families with income below the median income (below the median urban income for housing in urban areas) in the country in which the housing is located. The face value of guaranties issued with respect to housing in any country shall not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Notwithstanding the provisions of the first sentence of this subsection, the President is authorized to issue housing guaranties until September 30, 1978, as follows: In Israel, not exceeding a face amount of $75,000,000, in Portugal, not exceeding a face amount of $30,000,000, and in Lebanon, not exceeding a face amount of $30,000,000.

(As amended Pub. L. 95-88, title I, § 117(a)(3), (b)(2), (c), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88, § 117(b)(2), substituted "together with all fees collected in connection with guaranties issued under section 2181 or 2182 of this title or under prior housing guaranty authorities" for "together with all fees collected in connection with guaranties issued hereunder" and added provision that fees collected in connection with guaranties issued under section 2182a of this title shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section.

Subsec. (i). Pub. L. 95-88, § 117(a)(3), substituted "September 30, 1979" for "September 30, 1978".

Subsec. (j). Pub. L. 95-88, § 117(c), substituted "September 30, 1978" for "September 30, 1977", "$75,000,000" for "$50,000,000" in the provisions relating to housing guaranties in Israel, "$30,000,000" for "$20,000,000" in the provisions relating to housing guaranties in Portugal, and "$30,000,000" for "$15,000,000" in the provisions relating to housing guaranties in Lebanon.

SUBPART IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2360, 2396, 2429b of this title.

§ 2199. General provisions and powers

[*See main edition for text of* (a)]

(b) Transfer of prior obligations, etc.; administration prior to transfer; termination date for cessation by Corporation of operation of specified programs; transfer of programs and obligations, etc., to other agencies of the United States; conditions for continued operation subsequent to transfer

The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 2194(a), (b), and (d) of this title. Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this subpart as may be determined by the President.

On December 31, 1979, the Corporation shall cease operating the programs authorized by section 2194(b) through (e) of this title and section 2200 of this title. Thereafter, the President is authorized to transfer such programs, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to other agencies of the United States. Upon any such transfer, these programs shall be limited to countries with per capita income of $450 or less in 1973 dollars.

[*See main edition for text of* (c) *to* (h)]

CODIFICATION

Subsec. (b) is set out in this Supplement to correct a typographical error in the main edition.

SUBPART XI—FOOD PRODUCTION TARGETS AND REPORTS

§ 2220. Food production targets and reports

INTERNATIONAL FOOD RESERVE

Pub. L. 95-105, title V, § 510, Aug. 17, 1977, 91 Stat. 860, provided that:

"(a) The Congress finds and declares that—

"(1) half a billion people suffer from malnutrition or undernutrition;

"(2) very modest shortfalls in crop production can result in widespread human suffering;

"(3) increasing variability in world food production and trade remains an ever-present threat to producers and consumers;

"(4) the World Food Conference recognized the urgent need for an international undertaking on world food security based largely upon strategic food reserves;

"(5) the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability;

"(6) the Congress through legislation has repeatedly urged the President to enter negotiations with other nations to establish such a network of grain reserves;

"(7) little progress has resulted from the initial multilateral discussions toward the negotiation of an international grain reserve system;

"(8) this lack of progress is caused, in part, by lack of leadership in such discussions; and

"(9) the United States is in a unique position as the world's most important producer of foodstuffs to provide such leadership.

"(b) It is therefore the sense of the Congress that the President should initiate a major diplomatic initiative toward the creation of an international system of nationally held grain reserves which provides for supply assurance to consumers and income security to producers."

PART III—INTERNATIONAL ORGANIZATIONS AND PROGRAMS

§ 2222. Authorization of appropriations

(a) Grants

(1) There is authorized to be appropriated to the President for grants to carry out the purposes of this part, in addition to funds available under any other Act for such purposes, for the fiscal year 1977, $219,900,000 and for the fiscal year 1978, $252,000,000. Of such amounts, not to exceed $250,000 during the fiscal year 1976 shall be available for contribution to the Namibia Institute. Of the funds authorized to be appropriated under this subsection for the fiscal year 1978, not to exceed $42,500,000 shall be available for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees.

[*See main edition for text of* (2); (b) *to* (i)]

(As amended Pub. L. 95-88, title I, § 118(a), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-88 struck out provisions which had authorized appropriations of $127,822,000 for fiscal year 1974, $165,000,000 for fiscal year 1975, and $194,500,000 for fiscal year 1976, added provisions authorizing an appropriation of $252,000,000 for fiscal year 1978, and added requirement that, of the funds authorized to be appropriated under subsec. (a) for fiscal year 1978, not to exceed $42,500,000 be available for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees.

§ 2225. Integration of women

The President is requested to instruct each representative of the United States to each international organization of which the United States is a member (including but not limited to the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the International Monetary Fund, the United Nations, and the Organization for Economic Cooperation and Development) to carry out their duties with respect to such organizations in

such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organizations, thereby improving the status of women. The President is further requested, in making United States contributions to such organizations, to take into account the progress, or lack of progress, of such organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policymaking positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.

(As amended Pub. L. 95-88, title I, § 118(b), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Pub. L. 95-88 added request that the President, in making United States contributions, take into account the progress, or lack of progress, of organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policymaking positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.

PART V—CONTINGENCY FUND

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2429b of this title.

§ 2261. Authorization of appropriations

(a) Emergency assistance

There is authorized to be appropriated to the President for the fiscal year 1978 not to exceed $5,000,000 to provide assistance authorized by subchapter I of this chapter for any emergency purpose only in accordance with the provisions applicable to the furnishing of such assistance. Amounts appropriated under this section are authorized to remain available until expended.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-92, § 2, Aug. 4, 1977, 91 Stat. 614.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92 substituted provisions authorizing appropriations of not to exceed $5,000,000 for fiscal year 1978, for provisions authorizing appropriations of not to exceed $5,000,000 for fiscal years 1976 and 1977.

PART VIII—INTERNATIONAL NARCOTICS CONTROL

§ 2291a. Authorization of appropriations

To carry out the purposes of section 2291 of this title, there are authorized to be appropriated to the President $39,000,000 for the fiscal year 1978. Amounts appropriated under this section are authorized to remain available until expended.

(As amended Pub. L. 95-92, § 3, Aug. 4, 1977, 91 Stat. 614.)

AMENDMENTS

1977—Pub. L. 95-92 substituted provisions authorizing appropriations for fiscal year 1978 and providing for availability of amounts appropriated until expended, for provisions authorizing appropriations for fiscal years 1974 through 1977, provisions prohibiting obligation of appropriation for fiscal year 1976 for any country illegally trafficking in opiates unless such appropriation aids in reducing the amount of illegal opiates entering the international market, and provisions authorizing availability of amounts appropriated until expended.

PART IX—INTERNATIONAL DISASTER ASSISTANCE

§ 2292. General provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2292a, 2292f, 2292g, 2292h, 2292i, 2292j of this title.

§ 2292a. Authorization of appropriations; Presidential reports to Committee on Foreign Relations of the Senate and Speaker of the House

There is authorized to be appropriated to the President to carry out section 2292 of this title, $25,000,000 for each of the fiscal years 1977 and 1978. Amounts appropriated under this section are authorized to remain available until expended. The President shall submit quarterly reports to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives on the programing and obligation of funds under this section.

(As amended Pub. L. 95-88, title I, § 119, Aug. 3, 1977, 91 Stat. 541.)

AMENDMENTS

1977—Pub. L. 95-88 substituted "fiscal years 1977 and 1978" for "fiscal years 1976 and 1977".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2292, 2292k of this title.

§ 2292e. Transferred

CODIFICATION

Section, Pub. L. 87-195, pt. I, § 120, formerly pt. III, § 639B, as added Pub. L. 93-189, § 20, Dec. 17, 1973, 87 Stat. 725, renumbered pt. I, § 494B, and amended Pub. L. 94-161, title I, § 101(5), (7), Dec. 20, 1975, 89 Stat. 850, and renumbered pt. I, § 120, and amended Pub. L. 95-88, title I, § 115(1), (2), Aug. 3, 1977, 91 Stat. 539, which related to the Sahel development program and had been classified to section 2399-1b of this title, has been transferred to section 2151r of this title.

§ 2292h. Italy: relief, rehabilitation and reconstruction assistance

[*See main edition for text of* (a)]

(b) There are authorized to be appropriated to the President $30,000,000 for the fiscal year 1978 for relief, rehabilitation, and reconstruction assistance, in accordance with the provisions of section 2292 of this title and on such terms and conditions as he may determine, for the people who have been victimized by the recent earthquakes in Italy. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Obligations incurred prior to June 30, 1976, against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.

(As amended Pub. L. 95-88, title I, § 120, Aug. 3, 1977, 91 Stat. 541.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88, § 120(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-88, § 120(1), redesignated subsec. (b) as (c).

§ 2292j. Romanian relief and rehabilitation

(a) Authorization of assistance

The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from recent earthquakes in Romania, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other earthquake victims in Romania.

(b) Authorization of appropriations

There are hereby authorized to be appropriated to the President for the fiscal year 1977, notwithstanding any other provisions of this chapter, in addition to amounts otherwise available for such purposes, not to exceed $20,000,000, which amount is authorized to remain available until expended.

(c) Policies and general authority

Assistance under this section shall be provided in accordance with the policies and general authority contained in section 2292 of this title.

(d) Obligations charged against appropriations

Obligations incurred prior to April 18, 1977, against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Romania may be charged to the appropriations authorized under this section.

(e) Reports to Congress

Not later than sixty days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section.

(f) Human rights

Nothing in this section shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki) Final Act and the United Nations Declaration on Human Rights, or as constituting a precedent for or commitment to provide United States development assistance to Romania, and the Romanian Government shall be so notified when aid is furnished under this section.

(Pub. L. 87-195, pt. I, § 495D, as added Pub. L. 95-21, Apr. 18, 1977, 91 Stat. 48.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original, this Act, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Another section 495D of Pub. L. 87-195, known as the Foreign Assistance Act of 1961, was enacted by Pub. L. 95-88, title I, § 121, Aug. 3, 1977, 91 Stat. 541, and is set out as section 2292k of this title.

§ 2292k. Turkey relief, rehabilitation, and reconstruction

The President is requested to use up to $10,000,000 of the funds made available under section 2292a of this title to provide relief, rehabilitation, and reconstruction assistance to the victims of the recent earthquakes in Turkey.

(Pub. L. 87-195, pt. I, § 495D, as added Pub. L. 95-88, title I, § 121, Aug. 3, 1977, 91 Stat. 541.)

CODIFICATION

Another section 495D of Pub. L. 87-195, known as the Foreign Assistance Act of 1961, was enacted by Pub. L. 95-21, Apr. 18, 1977, 91 Stat. 48, and is set out as section 2292j of this title.

PART X—ASSISTANCE TO PORTUGAL AND PORTUGUESE COLONIES IN AFRICA GAINING INDEPENDENCE

§ 2294. Balance of payments loan for Portugal

(a) Statement of purpose

In recognition of the established interest of the United States in fostering a democratic government in Portugal, in maintaining the strength of the North Atlantic Treaty Organization alliance, and in supporting European economic recovery, the purpose of this section is to provide essential balance of payments assistance to Portugal.

(b) Authority of President

The President is authorized to make balance of payments support loans to Portugal as part of a special international effort to assist that country in the development and implementation of a program to gain financial stability and economic recovery.

(c) Authorization of appropriations; availability

There are authorized to be appropriated to the President not to exceed $300,000,000 for the fiscal year 1978 to carry out the purposes of this section, which amount is authorized to remain available until expended.

(Pub. L. 87-195, pt. I, § 497, as added Pub. L. 95-92, § 4, Aug. 4, 1977, 91 Stat. 614.)

SUBCHAPTER II—MILITARY ASSISTANCE AND SALES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2223, 2318, 2321d, 2344, 2352, 2384, 2385, 2392, 2393, 2394, 2395, 2396, of this title.

PART I—DECLARATION OF POLICY

§ 2304. Human rights and security assistance

[*See main edition for text of* (*a*)]

(b) Report by Secretary of State on practices of proposed recipient countries; considerations

The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. In determining whether a government falls within the provisions of subsection (a)(3) of this section and in the preparation of any report or statement required under this section, consideration shall be given to—

[*See main edition for text of* (*1*) *and* (*2*)]

(c) Congressional request for information; information required; 30 day period; failure to supply information; termination or restriction of assistance

(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

[*See main edition for text of* (*A*) *to* (*D*), (*2*) *to* (*4*); (*d*)]

(As amended Pub. L. 95-105, title I, § 109(a)(3), Aug. 17, 1977, 91 Stat. 846.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-105, § 109(a)(3)(A), substituted "Assistant Secretary of State" for "Coordinator".

Subsec. (c)(1). Pub. L. 95-105, § 109(a)(3)(B), substituted "Assistant Secretary of State" for "Coordinator".

PART II—MILITARY ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2304, 2360, 2372, 2417, 2442 of this title.

§ 2312. Authorization of appropriations; limitation on countries to receive assistance; adjustment of amounts; availability of appropriated amounts; programming and budgeting procedures

(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this part not to exceed $228,900,000 for the fiscal year 1978. Not more than the following amounts of funds available to carry out this part may be allocated and made available for assistance to each of the following countries for the fiscal year 1978:

Greece	$33,000,000
Portugal	25,000,000
Spain	15,000,000
Turkey	48,000,000
Jordan	55,000,000
Indonesia	15,000,000
Philippines	19,600,000
Thailand	8,000,000

The amount specified in this paragraph for military assistance to any such country for the fiscal year 1978 may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this part.

(2) Except with respect to costs incurred under the authority of section 2321j(b) of this title or as otherwise specifically authorized by law, none of the funds available for assistance under this part may be used to provide assistance to any recipient other than the countries specified in paragraph (1).

(3) The authority of section 2360(a) of this title and of section 2364(a) of this title may not be used to increase any amount specified in paragraph (1) or to waive the limitations of paragraph (2).

(4) Amounts appropriated under this subsection are authorized to remain available until expended.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-23, Apr. 30, 1977, 91 Stat. 54; Pub. L. 95-92, § 5(a), Aug. 4, 1977, 91 Stat. 614.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-92 substituted provisions authorizing appropriations for fiscal year 1978 to carry out the purposes of this part with specified amounts allocated to Greece, Portugal, Spain, Turkey, Jordan, Indonesia, Philippines, and Thailand, for provisions authorizing appropriations for fiscal years 1976 and 1977 to carry out the purposes of this part with specified amounts allocated to Greece, Indonesia, Jordan, Republic of Korea, Philippines, Thailand, Turkey, Ethiopia, and Portugal.

Pub. L. 95-23 substituted "$179,550,000" for "$177,300,000" and added Portugal, with a fiscal year 1977 limit of $32,250,000, to the table of countries.

Subsec. (a)(2). Pub. L. 95-92 substituted provisions prohibiting assistance to countries other than the countries specified in par. (1) except with respect to costs incurred under section 2321j(b) of this title or as otherwise required by law, for provisions setting forth limitations on amounts available for fiscal years 1976 and 1977 to carry out the purposes of this part with respect to assistance to international organizations and countries not designated in former par. (1).

Subsec. (a)(3). Pub. L. 95-92 substituted provisions relating to the authority of sections 2360(a) and

2364(a) of this title, for provisions setting forth limitations on the number of countries eligible for assistance under this part in fiscal years 1976 and 1977.

Subsec. (a)(4). Pub. L. 95-92 substituted provisions authorizing availability until expended of amounts appropriated under this subsection, for provisions relating to the authority of sections 2360(a) and 2364(a) of this title to increase appropriated amounts and making inapplicable to emergency assistance under section 2314(a) of this title limitations on appropriated funds under this section.

Subsec. (a)(5) to (8). Pub. L. 95-92 struck out subsec. (a)(5) to (8) which provided for appropriations for administrative and related expenses for fiscal years 1976 and 1977, restricted use of funds with respect to sophisticated weapons systems, authorized appropriated amounts to remain available until expended, and required assistance to Turkey under this part to be subject to section 2370(x) of this title, respectively.

§ 2314. Furnishing of defense articles or related training or other defense service on grant basis

[*See main edition for text of (a) to (f)*]

(g) Discrimination prohibited if based on race, religion, national origin, or sex

[*See main edition for text of (1) to (3)*]

(4)(A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

[*See main edition for text of (i) to (iv), (B) and (C)*]

(As amended Pub. L. 95-105, title I, § 109(a)(4), Aug. 17, 1977, 91 Stat. 846.)

AMENDMENTS

1977—Subsec. (g)(4)(A). Pub. L. 95-105 substituted "Assistant Secretary of State" for "Coordinator" in provisions preceding cl. (i).

§ 2321h. Stockpiling of defense articles for foreign countries

[*See main edition for text of (a)*]

(b) Fiscal year limits on new stockpiles or additions to existing stockpiles located in foreign countries

[*See main edition for text of (1)*]

(2) The value of such additions to stockpiles in foreign countries shall not exceed $270,000,000 for the fiscal year 1978.

[*See main edition for text of (c) to (e)*]

(As amended Pub. L. 95-92, § 6, Aug. 4, 1977, 91 Stat. 615.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-92 substituted "$270,000,000 for the fiscal year 1978" for "$93,750,000 for the period beginning July 1, 1975, and ending September 30, 1976, and $125,000,000 for the fiscal year 1977".

§ 2321i. Overseas management of assistance and sales programs

(a) Specific Congressional authorization required for military assistance advisory group, etc., to operate in any foreign country; exceptions

No military assistance advisory group, military mission, or other organization of United States military personnel performing similar military advisory functions under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] may operate in any foreign country unless specifically authorized by the Congress. The prohibition contained in this subsection does not apply to regular units of the Armed Forces of the United States engaged in routine functions designed to bring about the standardization of military operations and procedures between the Armed Forces of the United States and countries which are members of the North Atlantic Treaty Organization or other defense treaty allies of the United States.

(b) Assignment of military personnel to specified countries by President for implementation of management responsibilities during fiscal year 1978 under international security assistance programs; functions of assigned personnel; maximum number assignable; reimbursement

(1) In order to carry out his responsibilities for the management during the fiscal year 1978 of international security assistance programs conducted under this part, under part V of this subchapter, or under the Arms Export Control Act [22 U.S.C. 2751 et seq.], the President may assign members of the Armed Forces of the United States to perform necessary functions with respect to such programs in the countries specified in section 2312(a)(1) of this title and in the Republic of Korea, Panama, Brazil, Morocco, Iran, Kuwait, and Saudi Arabia. Members of the Armed Forces assigned under this subsection shall have as their primary functions logistics management, transportation, fiscal management, and contract administration of country programs. It is the sense of the Congress that advisory and training assistance in the countries specified above shall primarily be provided by personnel who are not assigned under this subsection and who are detailed for limited periods to perform specific tasks.

(2) The total number of members of the Armed Forces assigned under this subsection to each country specified in paragraph (1) of this subsection may not exceed the number justified to the Congress in the congressional presentation materials, unless the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives are so notified.

(3) Members of the Armed Forces authorized to be assigned to Iran, Kuwait, and Saudi Arabia by paragraph (1) of this subsection may only be assigned to such countries on a fully reimbursable basis under section 21(a) of the Arms Export Control Act [22 U.S.C. 2761(a)], except that this requirement shall apply only to the extent that the number of members of the Armed Forces assigned to each such country exceeds six.

(c) Assignment of military personnel to nonspecified countries by President for performance of accounting and other management functions under international security assistance programs; maximum number assignable; exceptions

The President may assign not to exceed three members of the Armed Forces to any country not specified in subsection (b)(1) of this section to perform accounting and other management functions with respect to international security assistance programs conducted under this part, part V of this subchapter, or under the Arms Export Control Act [22 U.S.C. 2751 et seq.], except that not to exceed three additional members of the Armed Forces may be assigned to a country to perform such functions when specifically requested by the Chief of the Diplomatic Mission as necessary to the efficient operation of the Mission.

(d) Maximum number assignable for fiscal year 1978 to all countries

The total number of members of the Armed Forces assigned to foreign countries under subsections (b) and (c) of this section may not exceed 865 for the fiscal year 1978.

(e) Direction and supervision of assigned personnel

Members of the Armed Forces assigned to a foreign country under subsection (b) or (c) of this section shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission in that country.

(f) Performance of management functions by defense attachés; procedure; maximum number

Defense attachés may perform overseas management functions described in this section only if the President determines that the performance of such functions by defense attachés is the most economic and efficient means of performing such functions. The President shall promptly report each such determination to the Speaker of the House of Representatives and to the chairman of the Senate Committee on Foreign Relations and the chairman of the Senate Committee on Armed Services, together with a description of the number of personnel involved and a statement of the reasons for such determination. The number of defense attachés performing overseas management functions in a country under this subsection may not exceed the number of defense attachés authorized to be assigned to that country on December 31, 1976.

(g) Funding requirements; applicability of assignment and numerical limitations to programs on reimbursable basis

The entire costs (including salaries of United States military personnel) of overseas management of international security assistance programs under this section shall be charged to or reimbursed from funds made available to carry out this part, including any such costs which are reimbursed from charges for services collected from foreign governments pursuant to sections 21(e) and 43(b) of the Arms Export Control Act [22 U.S.C. 2761(e) and 2792(b)]. The prohibition contained in subsection (a) of this section and the numerical limitations contained in subsections (b), (c), and (d) of this section shall not apply to members of the Armed Forces performing services for specific purposes and periods of time on a fully reimbursable basis under section 21(a) of the Arms Export Control Act [22 U.S.C. 2761(a)].

(As amended Pub. L. 95-92, § 7(a), Aug. 4, 1977, 91 Stat. 615.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, this Act, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsecs. (a), (b)(1), (c), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92 substituted provisions requiring specific Congressional authorization for a military assistance advisory group, etc., to operate in any foreign country and set forth exceptions to such requirement, for provisions authorizing deductions of expenditures from military assistance appropriations during the period beginning July 1, 1976, and ending Sept. 30, 1977, under section 2312 of this title where under this section reimbursement is requested by the expending government agency or if the available funds are deposited in the Treasury as miscellaneous receipts.

Subsec. (b). Pub. L. 95-92 substituted provisions relating to assignment of military personnel to specified countries by President for implementation of management responsibilities during fiscal year 1978 under international security assistance programs, for provisions requiring specific Congressional authority for assignment of any military assistance advisory group, etc., to operate in any foreign country after Sept. 30, 1977, and provisions relating to assignment by the President of military personnel to diplomatic missions of the United States.

Subsec. (c). Pub. L. 95-92 substituted provisions relating to assignment of military personnel to nonspecified countries by President for performance of accounting and other management functions under international security assistance programs, for provisions limiting after Sept. 30, 1976, the number of military missions and groups to not more than 34.

Subsec. (d). Pub. L. 95-92 substituted provisions setting forth maximum number of military personnel assignable under subsecs. (b) and (c) of this section for fiscal year 1978 as 865, for provisions defining "military assistance advisory group, military mission, or other organization of United States military personnel performing similar military advisory functions under this chapter".

Subsecs. (e) to (g). Pub. L. 95-92 added subsecs. (e) to (g).

§ 2321j. Termination of authority

(a) Except to the extent that the Congress may, subsequent to the enactment of this section, authorize the furnishing of military assistance in accordance with this part to specified countries in specified amounts, the authorities contained in this part (other than the authorities contained in sections 2318, 2321h, and 2321i of this title) may not be exercised after September 30, 1977, except that such authorities shall

remain available until September 30, 1980, to the extent necessary to carry out obligations incurred under this part on or before September 30, 1977.

(b) Funds available to carry out this part shall be available notwithstanding the limitations contained in paragraph (2) of section 2312(a) of this title—

[*See main edition for text of (1) and (2)*]

(As amended Pub. L. 95-92, §§ 5(b), 7(b), Aug. 4, 1977, 91 Stat. 615, 617.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92, § 7(b), struck out "(b)(2)" following "2321i".

Subsec. (b). Pub. L. 95-92, § 5(b), struck out reference to par. (3) of section 2312(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2312 of this title.

PART IV—SECURITY SUPPORTING ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 290f, 2151m, 2304, 2354, 2355, 2357, 2358, 2362, 2368, 2369, 2372, 2385, 2395, 2397, 2399c, 2421, 2427, 2442, 2443 of this title.

§ 2346. General authority; limitation on countries to receive assistance; applicability of policy directives

The President is authorized to furnish assistance to friendly countries, organizations, and bodies eligible to receive assistance under this chapter on such terms and conditions as he may determine, in order to support or promote economic or political stability. Except for programs in southern Africa, the authority of this part shall not be used to furnish assistance to more than twelve countries in any fiscal year. In planning security supporting assistance programs intended for economic development, the President shall take into account to the maximum extent feasible the policy directions set forth in part I of subchapter I of this chapter.

(As amended Pub. L. 95-92, § 8(a), Aug. 4, 1977, 91 Stat. 617.)

REFERENCES TO SUBCHAPTER I AS INCLUDING PART IV OF SUBCHAPTER II, SECTIONS 2346 TO 2346b, AND REFERENCES TO SUBCHAPTER II AS EXCLUDING PART IV OF SUBCHAPTER II, SECTIONS 2346 TO 2346b

Section 202(b) of Pub. L. 92-226 provided that: "Chapter 4 of part I of the Foreign Assistance Act of 1961 [part IV of subchapter I of this chapter (sections 2241 to 2243 of this title)] is hereby repealed. References to such chapter [4 of part I of the Foreign Assistance Act of 1961 (former sections 2241 to 2243 of this title)] or any sections thereof shall hereafter [on and after Feb. 7, 1972] be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section [this part], or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 [subchapter I of this chapter] shall hereafter be deemed to be references also to chapter 4 of part II [this part], and all references to part II of such Act [subchapter II of this chapter] shall be deemed not to include chapter 4 of such part II [this part]".

AMENDMENTS

1977—Pub. L. 95-92 added provisions excepting programs in southern Africa and requirement of consideration of policy directives in part I of subchapter I of this chapter.

REVIEW OF SECURITY SUPPORTING ASSISTANCE PROGRAM FOR EGYPT; ESTABLISHMENT, FUNCTIONS, ETC., OF SPECIAL INTERAGENCY TASK FORCE

Section 9 of Pub. L. 95-92 provided that:

"(a) It is the sense of the Congress that the security supporting assistance program for Egypt plays an important role in the Middle East peace effort and that the Executive branch should concentrate its efforts in order to make the program a success.

"(b) In furtherance of the policy expressed in subsection (a), the Secretary of State shall convene a Special Interagency Task Force (hereafter in this section referred to as the 'Task Force') to review and prepare a study on the security supporting assistance program for Egypt. The Task Force may employ consultants for the purpose of carrying out such study.

"(c)(1) The Task Force shall review planned United States economic assistance to Egypt and shall suggest alternatives to such assistance. In carrying out this paragraph, the Task Force shall consider—

"(A) the interrelationship of United States and Egyptian economic and political interests;

"(B) the possibility of emphasizing programs designed to enhance the opportunities in the Egyptian private business and agriculture sectors, with special emphasis on low-cost approaches to expedite development; and

"(C) to the extent appropriate, the views of Egyptian economists and government officials.

"(2) Based on an analysis of the considerations described in paragraph (1) and on such other considerations as it may find to be relevant, the Task Force shall develop a plan for the use of future United States economic assistance to Egypt. Such plan shall include, where necessary, suggestions for revising legislation, for specific development projects, and for the staff requirements of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [subchapter I of this chapter].

"(d)(1) In carrying out its responsibilities under paragraphs (1) and (2) of subsection (c), the Task Force shall consult, on a regular basis, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

"(2) The Task Force shall transmit the plan developed pursuant to subsection (c)(2) to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate not later than February 15, 1978.

"(e) Not to exceed $750,000 of the funds authorized and earmarked for security supporting assistance to Egypt in the fiscal year 1977 shall be available to carry out this section."

§ 2346a. Authorization of appropriations; availability

(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this part for the fiscal year 1978 not to exceed $1,890,000,000, of which not less than the following amounts shall be available only for the following countries:

Israel	$785,000,000
Egypt	750,000,000
Jordan	93,000,000
Syria	90,000,000
Lebanon	20,000,000
Cyprus	15,000,000

(2) Of the amount authorized to be appropriated by paragraph (1) for the fiscal year 1978

which is available for Israel, not less than $300,000,000 shall be available only for budgetary support on a grant basis.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(As amended Pub. L. 95-92, § 8(b), Aug. 4, 1977, 92 Stat. 617.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92 designated existing provisions as par. (1) and, as so designated, substituted provisions relating to authorization of appropriation to carry out the purposes of this part for the fiscal year 1978, and requirements respecting minimum amounts available for Israel, Egypt, Jordan, Syria, Lebanon, and Cyprus, for provisions relating to authorization of appropriations to carry out the purposes of this part for the fiscal years 1976 and 1977, requirements respecting minimum amounts available for Greece, Israel, and Egypt for fiscal year 1976, and for Israel, Egypt, Zambia, and Zaire for fiscal year 1977, and availability of appropriated amounts until expended, and added par. (2).

Subsec. (b). Pub. L. 95-92 substituted provisions authorizing availability of appropriated amounts until expended, for provisions relating to restrictions on funds appropriated to Zaire and Zambia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2346b of this title.

§ 2346b. Southern Africa special requirements funds

(a) Availability of moneys; purposes of expenditures; restrictions; Congressional notification by President

(1) Of the funds authorized to be appropriated by section 2346a of this title for the fiscal year 1978, $80,000,000 shall be available only for the countries of southern Africa to address the problems caused by the economic dislocation resulting from the conflict in that region, and for education and job training assistance for Africans from Namibia and Zimbabwe (Southern Rhodesia). Such funds may be used to provide assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts, and to provide trade credits for the purchase of United States products to those countries in the region adversely affected by blocked outlets for their exports and by the overall strains of the world economy.

(2) Of the funds made available under this section, not more than the following amounts may be made available for the following:

Botswana	$15,000,000
Lesotho	15,000,000
Swaziland	5,000,000
Regional programs for education, training, and refugee assistance	45,000,000

(3) To the extent practicable consistent with the purposes specified in paragraph (1), assistance under this section should be used to meet the objectives set forth in sections 2151(c) and (d) of this title and in other sections of part I of subchapter I of this chapter.

(4) Before obligating any funds under this section, the President shall notify the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate with respect to the specific projects and programs for which such funds will be used.

(b) Preparation by President of analysis of developmental needs of region

Of the funds made available under subsection (a) of this section for regional programs, not to exceed $1,000,000 may be used by the President for the preparation of a comprehensive analysis of the development needs of southern Africa to enable the Congress to determine what contribution United States foreign assistance can make.

(c) Limitations; waiver

(1) None of the funds made available under this section may be used for military, guerrilla, or paramilitary activities in any country.

(2) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines (and so reports to the Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States.

(d) Rhodesian conflict settlement; effect on establishment of Zimbabwe Development Fund

It is the sense of the Congress that the United States should support an internationally recognized constitutional settlement of the Rhodesian conflict leading promptly to majority rule based upon democratic principles and upholding basic human rights. The Congress declares its intent to support United States participation in a Zimbabwe Development Fund. The Congress intends to authorize the necessary appropriation when progress toward such an internationally recognized settlement would permit establishment of the Fund.

(Pub. L. 87-195, pt. II, § 533, as added Pub. L. 95-92, § 8(c), Aug. 4, 1977, 91 Stat. 618.)

PRIOR PROVISIONS

A prior section 2346b, Pub. L. 87-195, pt. II, § 533, as added Pub. L. 92-226, pt. II, § 202(a), Feb. 7, 1972, 86 Stat. 27, provided for a Vietnam special dollar account for coverage of United States refund claims, amount in account, and maintenance of dollar level, and was repealed by Pub. L. 93-189, § 13(2), Dec. 17, 1973, 87 Stat. 722.

PART V—INTERNATIONAL MILITARY EDUCATION AND TRAINING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2304, 2372, 2403, 2417 of this title.

§ 2347a. Authorization of appropriations

There are authorized to be appropriated to the President to carry out the purposes of this part $31,000,000 for the fiscal year 1978. After June 30, 1976, no training under this section may be conducted outside the United States unless the President has reported and justified such training to the Speaker of the House of

Representatives and the Committee on Foreign Relations of the Senate.

(As amended Pub. L. 95-92, § 10, Aug. 4, 1977, 91 Stat. 619.)

AMENDMENTS

1977—Pub. L. 95-92 substituted "$31,000,000 for the fiscal year 1978" for "$27,000,000 for the fiscal year 1976 and $30,200,000 for the fiscal year 1977".

SUBCHAPTER III—GENERAL AND ADMINISTRATIVE PROVISIONS

PART I—GENERAL PROVISIONS

§ 2357. Furnishing of services and commodities

(a) Advance-of-funds or reimbursement basis

Whenever the President determines it to be consistent with and in furtherance of the purposes of subchapter I of this chapter and within the limitations of this chapter, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid (including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available). Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

[*See main edition for text of (1) and (2); (b)*]

(As amended Pub. L. 95-88, title I, § 122(a), Aug. 3, 1977, 91 Stat. 541.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88 added "(including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available)" following "and voluntary nonprofit relief agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid" in the provisions preceding par. (1).

REGULATIONS GOVERNING REGISTRATION AND APPROVAL OF FOREIGN NONPROFIT RELIEF AGENCIES

Section 122(b) of Pub. L. 95-88 provided that: "For purposes of implementing the amendment made by subsection (a) [amending this section], the President shall issue regulations governing registration with and approval by the Advisory Committee on Voluntary Foreign Aid of foreign voluntary nonprofit agencies."

§ 2364. Special authorities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2151g, 2151m, 2161, 2211, 2222, 2312, 2314, 2360, 2394, 2411, 2413 of this title.

§ 2370. Prohibitions against furnishing assistance

(a) Cuba; embargo on all trade

(1) No assistance shall be furnished under this chapter to the present government of Cuba. As an additional means of implementing and carrying into effect the policy of the preceding sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.

[*See main edition for text of (2)*]

(3) Repealed. Pub. L. 95-88, title I, § 123(a)(2), Aug. 3, 1977, 91 Stat. 541.

[*See main edition for text of (b) to (m)*]

(n) Repealed. Pub. L. 95-88, title I, § 123(b), Aug. 3, 1977, 91 Stat. 541

[*See main edition for text of (o) to (w)*]

(x) Suspension of military assistance to Turkey

(1) All military assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Turkey, shall be suspended on December 30, 1974, unless and until the President determines and certifies to the Congress that the Government of Turkey is in compliance with this chapter, the Foreign Military Sales Act [22 U.S.C. 2751 et seq.], and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus: *Provided*, That for the fiscal year 1978 the President may suspend the provisions of this subsection and of section 3(c) of the Arms Export Control Act [22 U.S.C. 2753(c)] with respect to cash sales and extensions of credits and guaranties under such Act for the procurement of such defense articles and defense services as the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, except that during the fiscal year 1978 the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $175,000,000. Any such suspension shall be effective only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war. The determination required by the proviso in the first sentence of this paragraph shall be made, on a case-by-case basis, with respect to each cash sale, each approval for use of credits, and each approval for use of a guaranty for Turkey. Each such determination shall be reported to the Congress and shall be accompanied by a full and complete statement of the reasons supporting the President's determination and a statement containing the information specified in clauses (A) through (D) of section 2(c)(4) of the act of October 6, 1975 (Public Law 94-104).

In any case involving the sale of significant combat equipment on the United States Munitions List in which the congressional review provisions of section 36(b) of the Arms Export Control Act [22 U.S.C. 2776(b)] do not apply, the President may not issue the letter of offer or approve the use of the credits or guaranty, as the case may be, until the end of the thirty-day period beginning on the date on which the report required by the preceding sentence is submitted to the Congress.

[*See main edition for text of* (2)]

(As amended Pub. L. 95-88, title I, § 123(a), (b), Aug. 3, 1977, 91 Stat. 541; Pub. L. 95-92, § 22(d), Aug. 4, 1977, 91 Stat. 624.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-88, § 123(a)(1), struck out provision that no assistance be furnished to any country which furnished assistance to the government of Cuba unless the President determined that assistance to the supplying country was in the national interest of the United States.

Subsec. (a)(3). Pub. L. 95-88, § 123(a)(2), struck out subsec. (a)(3), which had directed that no funds be used to furnish assistance to countries which had not taken steps to prevent ships or aircraft of their registry from transporting equipment, materials, or commodities to Cuba.

Subsec. (n). Pub. L. 95-88, § 123(b), struck out subsec. (n), which had prohibited the giving of aid to countries that sold or furnished to North Vietnam, or permitted their ships or aircraft to carry to or from North Vietnam, equipment, materials, or commodities, unless the President determined that the giving of aid was in the national interest.

Subsec. (x)(1). Pub. L. 95-92 substituted "1978" for "1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal year 1977," and provisions authorizing $175,000,000 during the fiscal year 1978 for Turkey as the total value of defense articles and services sold to such country, for provisions authorizing $125,000,000 during the fiscal year 1976, and the period beginning July 1, 1976, and ending Sept. 30, 1976, and $125,000,000 during the fiscal year 1977 for Turkey as the total value of defense articles and services sold to such country.

RESTRICTIONS ON ASSISTANCE DURING FISCAL YEAR 1978 INVOLVING MILITARY OR PARAMILITARY OPERATIONS IN ZAIRE

Section 25 of Pub. L. 95-92 provided that:

"No assistance of any kind may be furnished for the fiscal year 1978 for the purpose, or which would have the effect, or promoting or augmenting, directly or indirectly, any military or paramilitary operations in Zaire unless and until the President determines that such assistance should be furnished in the national security interests of the United States and submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

"(1) a detailed description of the assistance proposed to be furnished, including the amounts of such assistance, the categories and specific kinds of assistance proposed, and the purposes for which such assistance will be used; and

"(2) a certification that the President has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement, in unclassified form, of the reasons supporting such determination."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2831, 2293, 2312 of this title; title 7 section 1736d; title 12 section 635.

§ 2372. Prohibition against assistance and sales to Argentina

After September 30, 1978—

(1) no assistance may be furnished under part 2, 4, or 5 of subchapter II of this chapter to Argentina;

(2) no credits (including participation in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act [22 U.S.C. 2751 et seq.] with respect to Argentina;

(3) no sales of defense articles or services may be made under the Arms Export Control Act to Argentina; and

(4) no export licenses may be issued under section 38 of the Arms Export Control Act [22 U.S.C. 2778] to or for the Government of Argentina.

(Pub. L. 87-195, pt. III, § 620B, as added Pub. L. 95-92, § 11, Aug. 4, 1977, 91 Stat. 619.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in pars. (2), (3), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

PART II—ADMINISTRATIVE PROVISIONS

§ 2381. Exercise of functions

EX. ORD. NO. 10973. ADMINISTRATION OF FOREIGN ASSISTANCE AND RELATED FUNCTIONS

Ex. Ord. No. 10973, Nov. 6, 1961, 26 F.R. 10469, as amended by Ex. Ord. No. 11261, Dec. 11, 1965, 30 F.R. 15397; Ex. Ord. No. 11417, July 24, 1968, 33 F.R. 10625; Ex. Ord. No. 11432, Oct. 22, 1968, 33 F.R. 15701; Ex. Ord. No. 11685, Sept. 25, 1972, 37 F.R. 20155; Ex. Ord. No. 11816, Oct. 23, 1974, 39 F.R. 37965; Ex. Ord. No. 11841, Feb. 28, 1975, 40 F.R. 8933; Ex. Ord. No. 11959, Jan. 18, 1977, 42 F.R. 4315, provided:

* * * * *

PART II—DEPARTMENT OF DEFENSE

* * * * *

SEC. 203. *Exclusions from delegation to Secretary of Defense.* The following-described functions conferred upon the President by the Act [this chapter] are excluded from the functions delegated by the provisions of section 201(a) of this order:

(a) Those under section 502(B)(a)(3) of the Act [section 2304(a)(3) of this title], except to the extent they relate to functions under the Act administered by the Department of Defense.

(b) Those under sections 504(a), 505(a) [sections 2312(a) and 2314(a) of this title] relating to other provisions required by the President, and 505(d), (e), and (g) of the Act [section 2314(d), (e), and (g) of this title].

(c) Those relating to consent under sections 505(a)(1) and (4) of the Act [section 2314(a)(1) and (4) of this title].

(d) Those under sections 505(b)(1), (2), and (3) of the Act [section 2314(b)(1), (2), and (3) of this title] to the extent that they pertain to countries which agree to the conditions set forth therein.

(e) Those of negotiating, concluding and terminating international agreements.

PART III—OTHER AGENCIES

* * * * *

§ 2384. Statutory officers

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Repealed. Pub. L. 95-88, title I, § 124(a)(1), Aug. 3, 1977, 91 Stat. 541

[*See main edition for text of* (*e*)]

(f) Assistant Secretary of State for Human Rights and Humanitarian Affairs

(1) There shall be in the Department of State an Assistant Secretary of State for Human Rights and Humanitarian Affairs who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy. The Secretary of State shall carry out his responsibility under section 2304 of this title through the Assistant Secretary.

(2) The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall maintain continuous observation and review of all matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy including—

[*See main edition for text of* (*A*) *to* (*D*)]

(As amended Pub. L. 95-88, title I, § 124(a)(1), Aug. 3, 1977, 91 Stat. 541; Pub. L. 95-105, title I, § 109(a)(1), Aug. 17, 1977, 91 Stat. 846.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-88 struck out subsec. (d), which had provided for an Inspector General, Foreign Assistance.

Subsec. (f)(1). Pub. L. 95-105, § 109(a)(1)(A), substituted references to the Assistant Secretary of State for Human Rights and Humanitarian Affairs for references to the Coordinator for Human Rights and Humanitarian Affairs.

Subsec. (f)(2). Pub. L. 95-105, § 109(a)(1)(B), substituted "Assistant Secretary of State" for "Coordinator".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 124(c) of Pub. L. 95-88 provided that: "The amendments made by this section [repealing subsec. (d) of this section and pars. (52) and (53) of section 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under this section] shall take effect on July 1, 1978."

ASSUMPTION OF DUTIES BY COORDINATOR FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Section 109(a)(6) of Pub. L. 95-105 provided that: "The individual holding the position of Coordinator for Human Rights and Humanitarian Affairs on the date of enactment of this section [Aug. 17, 1977] shall assume the duties of the Assistant Secretary of State for Human Rights and Humanitarian Affairs and shall not be required to be reappointed by reason of the enactment of this section."

REPORT TO SPEAKER OF THE HOUSE AND CONGRESSIONAL COMMITTEES ON OFFICE OF ASSISTANT SECRETARY FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Section 109(a)(7) of Pub. L. 95-105 provided that: "Not later than January 31, 1978, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairmen of the Senate Committee on Foreign Relations and the Senate Committee on the Judiciary a comprehensive report on the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, including its current mandate and operations, the mandate and operations of its predecessor offices, and proposals for the reorganization of the Department of State that would strengthen human rights and humanitarian considerations in the conduct of United States foreign policy and promote the ability of the United States to participate effectively in international humanitarian efforts."

ASSIGNMENT OF DUTIES AND RESPONSIBILITIES TO INSPECTOR GENERAL, FOREIGN SERVICE

Section 124(a)(2) of Pub. L. 95-88 provided that: "The President (A) may assign to the Inspector General, Foreign Service, any of the duties and responsibilities vested by such section 624(d) [subsec. (d) of this section] in the Inspector General, Foreign Assistance, and (B) may authorize the Inspector General, Foreign Service, to exercise such of the authorities granted by such section 624(d) [subsec. (d) of this section] to the Inspector General, Foreign Assistance, as the President determines are necessary to carry out any duties or responsibilities so assigned."

§ 2385. Employment of personnel

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Employment or assignment of officers and employees to perform functions outside United States

For the purpose of performing functions under this chapter outside the United States the President may—

[*See main edition for text of* (*1*)]

(2) utilize such authority, including authority to appoint and assign personnel for the duration of operations under this chapter, contained in the Foreign Service Act of 1946, as amended [22 U.S.C. 801 et seq.], as the President deems necessary to carry out functions under this chapter; and such provisions of the Foreign Service Act of 1946, as amended, as the President deems appropriate shall apply to personnel appointed or assigned under this paragraph, including in all cases the provisions of section 528 of that Act [22 U.S.C. 928]: *Provided, however,* That the President may by regulation make exceptions to the application of section 528 of that Act [22 U.S.C. 928] in cases in which the period of the appointment or assignment exceeds thirty months: *Provided further,* That Foreign Service Reserve officers appointed or assigned pursuant to this paragraph shall receive within-class salary increases in accordance with such regulations as the President may prescribe: *Provided further,* That, whenever the President determines it to be important for the purposes of this chapter, the President may initially assign personnel under this

paragraph for duty within the United States for a period not to exceed two years for the purpose of preparation for assignment outside the United States.

[*See main edition for text of (e) to (k)*]

(As amended Pub. L. 95-88, title I, § 125, Aug. 3, 1977, 91 Stat. 542.)

AMENDMENTS

1977—Subsec. (d)(2). Pub. L. 95-88 struck out a numerical limitation of fifty on the number of persons which the President may assign, at any one time, to duty within the United States for the purpose of preparation for assignments outside the United States.

§ 2386. Experts, consultants, and retired officers

[*See main edition for text of (a)*]

(b) Exemption from certain Federal laws

Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5.

[*See main edition for text of (c)*]

(As amended Pub. L. 95-88, title I, § 126, Aug. 3, 1977, 91 Stat. 542.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88 struck out provisions under which service of an individual as an expert or consultant under subsec. (a) would not be considered employment as would bring a person under section 8344 of title 5, section 1112 of this title, and any other law limiting the employment reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities subject to section 5532 of title 5.

§ 2391. Missions and staffs abroad

[*See main edition for text of (a) to (c)*]

(d) Administration of assistance

Wherever practicable, especially in the case of the smaller programs, assistance under subchapter I of this chapter shall be administered under the direction of the Chief of the United States Diplomatic Mission by the principal economic officer of the mission.

(As amended Pub. L. 95-92, § 7(c), Aug. 4, 1977, 91 Stat. 617.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-92 substituted reference to subchapter I of this chapter for reference to this chapter and struck out provisions requiring administration of assistance by the senior military officer of the mission for assistance under subchapter II of this chapter.

§ 2399c. Coordination of policies and programs

(a) Development Coordination Committee established

The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the head of the agency primarily responsible for administering subchapter I of this chapter, Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, and Labor, the Executive Office of the President, and other executive departments and agencies, as the President shall designate. The Committee shall advise the President concerning the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.

[*See main edition for text of (b) and (c)*]

(d) Presidential reports to Congress

The President shall report to the Congress during the first quarter of each calendar year on United States actions affecting the development of less developed countries. The report shall include (1) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of such countries, including but not limited to the areas of bilateral and multilateral assistance, trade, commodities, monetary affairs, private investment, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development; and (2) an assessment of the impact of such policies and programs on (A) national employment, wages, and working conditions in the United States, as well as other aspects of the United States economy, and (B) the well-being of the poor in the less developed countries in accordance with the approach to development outlined in subsections (c) and (d) of section 2151 of this title.

(e) Temporary assignment of employees

The head of any of the departments or agencies referred to in subsection (a) of this section may temporarily assign, upon the request of the Chairman, any employee from such department or agency to the staff of the Committee.

(f) Studies

To carry out the purposes of subsection (a) of this section, the Committee shall—

(1) prepare studies on various development problems;

(2) devise implementation strategies on developmental problems appropriate to each such department or agency;

(3) monitor and evaluate the results of the development activities of each such department or agency; and

(4) arrange for the exchange of information and studies between such agencies and departments.

(g) Report on studies

In his annual report to the Congress pursuant to subsection (d) of this section, the President shall include a report on the Committee's operations pursuant to subsection (f) of this section.

(As amended Pub. L. 95-88, title I, § 127; Aug. 3, 1977, 91 Stat. 542.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, § 127(a), provided that the Committee advise the President concerning the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.

Subsec. (d). Pub. L. 95-88, § 127(b), substituted "less developed countries" for "low-income countries" in the description of the subject matter of the Presidential reports to Congress, designated existing provisions setting out the subject matter of the reports as cl. (2)(A), and added cls. (1) and (2)(B).

Subsecs. (e) to (g). Pub. L. 95-88, § 127(c), added subsecs. (e) to (g).

PART III—MISCELLANEOUS PROVISIONS

§ 2406. Development programs for dependable fuel supplies

PROHIBITION ON ASSISTANCE FOR NUCLEAR POWERPLANTS FOR FISCAL YEAR 1978

Pub. L. 95-92, § 14, Aug. 4, 1977, 91 Stat. 622, provided that: "None of the funds made available to carry out the Foreign Assistance Act of 1961 [this chapter] for the fiscal year 1978 may be used to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the United States and any other country."

§ 2417. Annual foreign assistance and military exports report

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1726.

§ 2421. Reimbursable development programs

The President is authorized to use $2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1977 and $2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978, to work with friendly countries, especially those in which United States development programs have been concluded or those not receiving assistance under subchapter I of this chapter, in (1) facilitating open and fair access to natural resources of interest to the United States and (2) stimulation of reimbursable aid programs consistent with subchapter I of this chapter. Any funds used for purposes of this section may be used notwithstanding any other provision of this chapter.

(As amended Pub. L. 95-88, title I, § 128, Aug. 3, 1977, 91 Stat. 543.)

AMENDMENTS

1977—Pub. L. 95-88 struck out provisions authorizing the President to use up to $1,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1975 and $2,000,000 in the fiscal year 1976, and added provisions authorizing the President to use $2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978.

§ 2424. Repealed. Pub. L. 95-88, title I, § 123(c), Aug. 3, 1977, 91 Stat. 541

Section, Pub. L. 87-195, pt. III, § 664, as added Pub. L. 93-559, § 33, Dec. 30, 1974, 88 Stat. 1805, authorized the President to waive provisions which prohibited assistance to countries trading with designated countries.

§ 2427. Operating expenses

(a) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, for the fiscal year 1978—

(1) $220,200,000 for necessary operating expenses of the agency primarily responsible for administering subchapter I of this chapter; and

(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(As amended Pub. L. 95-88, title I, § 129(a), Aug. 3, 1977, 91 Stat. 543.)

AMENDMENTS

1977—Pub. L. 95-88 substituted provisions authorizing appropriations for fiscal year 1978 for provisions stating that nothing in this chapter was intended to preclude the Committees on Appropriations from setting a ceiling on operating expenses of the agency primarily responsible for administering subchapter I of this chapter or limiting the availability of other sums therefor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2151g of this title.

§ 2428a. Congressional declaration of policy towards Korea; transmittal of report to Speaker of the House and congressional committees

(a) The Congress declares that—

(1) United States policy toward Korea should continue to be arrived at by joint decision of the President and the Congress;

(2) in any implementation of the President's policy of gradual and phased reduction of United States ground forces from the Republic of Korea, the United States should seek to accomplish such reduction in stages consistent with United States interests in Asia, notably Japan, and with the security interests of the Republic of Korea;

(3) any implementation of this policy should be carried out with a careful regard to the interest of the United States in continuing its close relationship with the people and government of Japan, in fostering democratic practices in the Republic of Korea, and in maintaining stable relations among the countries of East Asia; and

(4) these interests can be served most effectively by a policy which involves consultations by the United States Government, as appropriate, with the governments of the region, particularly those directly involved.

(b)(1) Any implementation of the foregoing policy shall be carried out in regular consultation with the Congress.

(2) Not later than February 15, 1978, and not later than February 15 of each year thereafter until any such withdrawal is completed, the President shall transmit a report in writing to the Speaker of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Intelligence of the Senate assessing the implementation of the foregoing policy.

(Pub. L. 95-105, title V, § 512, Aug. 17, 1977, 91 Stat. 861.)

CODIFICATION

Section was enacted as a part of Pub. L. 95-105, the Foreign Relations Authorization Act, Fiscal Year 1978, and not as a part of Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961, which comprises this chapter.

§ 2429. Nuclear enrichment transfers by or to recipients of economic, military or security supporting, etc., assistance from United States; prohibitions; exceptions; procedures applicable

(a) Except as provided in subsection (b) of this section, no funds authorized to be appropriated by this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] may be used for the purpose of providing economic assistance, providing military or security supporting assistance or grant military education and training, or extending military credits or making guarantees, to any country which, on or after August 4, 1977, delivers nuclear enrichment equipment, materials, or technology to any other country, or receives such equipment, materials, or technology from any other country, unless before such delivery—

(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b)(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

(2) Any joint resolution which would terminate or restrict assistance described in subsection (a) of this section with respect to a country to which the prohibition in such subsection applies shall, if introduced within thirty days after the transmittal of a certification under paragraph (1) of this subsection with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(As amended Pub. L. 95-92, § 12, Aug. 4, 1977, 91 Stat. 620.)

REFERENCES IN TEXT

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b)(2), is section 601(b) of Pub. L. 94-329, title VI, June 30, 1976, 90 Stat. 765, which made provision for expedited procedures in the Senate, and is not classified to the Code.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92 added provision for applicability to transfers on or after Aug. 4, 1977, and struck out applicability to nuclear reprocessing equipment, materials, or technology.

Subsec. (b). Pub. L. 95-92 in par. (1) struck out requirement that the President issue an Executive order effective not less than 30 days following its date of promulgation prior to furnishing assistance, and in par. (2) redesignated former subpar. (B) as existing par. with minor changes in phraseology and struck out subpar. (A) which authorized the Congress by joint resolution to terminate or restrict assistance under subsec. (a) of this section.

§ 2429a. Nuclear reprocessing transfers by or to, and nuclear detonations by, recipients of economic, military or security supporting, etc., assistance; prohibitions; exceptions; procedures applicable

(a) Except as provided in subsection (b) of this section, no funds authorized to be appropriated by this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] may be used for the purpose of providing economic assistance, providing military or security supporting assistance or grant military education and training, or extending military credits or making guarantees, to any country which on or after August 4, 1977—

(1) delivers nuclear reprocessing equipment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing); or

(2) is not a nuclear-weapon state as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons and which detonates a nuclear explosive device.

(b)(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(2) Any joint resolution which would terminate or restrict assistance described in subsection (a) of this section with respect to a country to which the prohibition in such subsection applies shall, if introduced within thirty days after the transmittal of a certification under paragraph (1) of this subsection with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(Pub. L. 87-195, pt. III, § 670, as added Pub. L. 95-92, § 12, Aug. 4, 1977, 91 Stat. 620.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, this Act, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b)(2), is section 601(b) of Pub. L. 94-329, title VI, June 30, 1976, 90 Stat. 765, which made provision for expedited procedures in the Senate, and is not classified to the Code.

§ 2429b. Notification of program changes

None of the funds appropriated to carry out the purposes of this chapter (except for programs under subpart III or subpart IV of part II of subchapter I of this chapter, part V of subchapter I of this chapter, and programs of disaster relief and rehabilitation) may be obligated for any activities, programs, projects, types of materiel assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligation under this chapter for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligation.

(Pub. L. 87-195, pt. III, § 671, as added Pub. L. 95-88, title I, § 130, Aug. 3, 1977, 91 Stat. 543.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original, this Act, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

SUBCHAPTER IV—INDOCHINA POSTWAR RECONSTRUCTION

§ 2431. Repealed. Pub. L. 94-329, title IV, § 413(a), June 30, 1976, 90 Stat. 761

PIASTER CONVERSION FOR FORMER AND PRESENT VIETNAMESE EMPLOYEES OF AGENCY FOR INTERNATIONAL DEVELOPMENT

Pub. L. 95-92, § 29, Aug. 4, 1977, 91 Stat. 626, provided that: "No provision of law shall be construed to prevent payment of claims of former and present Vietnamese employees of the Agency for International Development, who presently reside in the United States, for the conversion of Vietnamese piasters to dollars because such conversion cannot take place in the territory of the former Republic of Vietnam or because the official with whom such piasters were deposited was not a United States disbursing officer."

SUBCHAPTER V—MIDDLE EAST ASSISTANCE

§ 2443. Special requirements fund

(a) Authorization of appropriations; Presidential use of funds

There are authorized to be appropriated to the President for the fiscal year 1978 not to exceed $25,000,000, of which not less than $12,200,000 shall be available only for the Sinai support mission, to furnish assistance under subchapter I of this chapter to meet special requirements arising from time to time in carrying out the purposes of this subchapter, in addition to funds otherwise available for such purposes. The funds authorized to be appropriated by this section shall be available for use by the President for assistance authorized by this subchapter in accordance with the provisions applicable to the furnishing of such assistance. Such funds are authorized to remain available until expended.

(b) Presidential report to Speaker of House and Committees of Senate

The President may only obligate or expend, for each foreign country or international organizations,[1] funds authorized under this section—

(1) after he reports to the Speaker of House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate concerning (A) the name of such foreign country or international organizations, (B) the amount of such funds to be made available to such country or organization, (C) the purpose for which such funds are to be made available to such country or organization, and (D) the reasons why the President has determined that it is in the national interest to use funds appropriated under this section for such purpose rather than (i) using funds available for such pur-

[1] So in original. Probably should read "organization".

pose under subchapter I of this chapter, or (ii) if no funds are available for such purpose under subchapter I of this chapter, awaiting the enactment of legislation making funds specifically available for such purpose; and

(2) unless the Congress, within thirty calendar days after receiving any report under paragraph (1), adopts a concurrent resolution stating in substance that it does not favor the provisions of the report required by paragraph (1).

[*See main edition for text of (c) and (d)*]

(e) Presentation materials submitted to Congress for fiscal year 1978

Funds made available under this section may be obligated without regard to the provisions of subsection (b) of this section for programs contained in the presentation materials submitted to Congress for the fiscal year 1978.

(As amended Pub. L. 95-92, § 13, Aug. 4, 1977, 91 Stat. 621.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92, § 13(1), substituted provisions authorizing appropriations for the fiscal year 1978 of not to exceed $25,000,000 and authorizing not less than $12,200,000 to be available for the Sinai support mission, for provisions authorizing appropriations for the fiscal years 1976 and 1977 of not to exceed $50,000,000 and $35,000,000, respectively.

Subsec. (b). Pub. L. 95-92, § 13(2), in par. (1) added cl. (D) and in par. (2) substituted reference to par. (1) for reference to cls. (A) to (C) of par. (1).

Subsec. (e). Pub. L. 95-92, § 13(3), substituted "1978" for "1977".

CHAPTER 33—MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

§ 2451. Congressional statement of purpose

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof under this chapter were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except (A) for such functions as are vested by sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in the President or Secretary of State.

§ 2452. Authorization of activities; grants or contracts for educational or cultural exchanges; participation in international fairs and expositions abroad; other exchanges

(a) The Director of the International Communication Agency is authorized, when he considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for—

[*See main edition for text of (1)*]

(2) cultural exchanges, by financing—

[*See main edition for text of (i) to (iii)*]

(iv) participation by groups and individuals from other countries in nonprofit activities in the United States similar to those described in subparagraphs (ii) and (iii) of this paragraph, when the Director of the International Communication Agency determines that such participation is in the national interest.

[*See main edition for text of (3); (b)*]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "President" in subsec. (a) opening par. and (a)(2)(iv), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, to the Director of the International Communication Agency, except (A) for such functions as are vested by subsec. (b)(6), (10) of this section, and sections 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such functions therein is vested in the President or Secretary of State.

§ 2453. Agreements with foreign governments and international organizations

(a) Authorization

The Director of the International Communication Agency is authorized to enter into agreements with foreign governments and international organizations, in furtherance of the purposes of this chapter. In such agreements the Director of the International Communication Agency is authorized, when he deems it in the public interest, to seek the agreement of the other governments concerned to cooperate and assist, including making use of funds placed in special accounts pursuant to agreements concluded in accordance with section 1513(b)(6) of this title, or any similar agreements, in providing for the activities authorized in section 2452 of this title, and particularly those authorized in subsection (a)(1) of said section 2452, with respect to the expenses of international transportation of their own citizens and nationals and of activities in furtherance of the purposes of this chapter carried on within the borders of such other nations.

[*See main edition for text of* (*b*)]

(c) United States participation in programs

In such agreements with international organizations, the Director of the International Communication Agency may provide for equitable United States participation in and support for, including a reasonable share of the cost of, educational and cultural programs to be administered by such organizations.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "President" in subsecs. (a) and (c), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except (A) for such functions as are vested by sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such functions therein is vested in the President or Secretary of State.

§ 2454. Administration

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Employment or assignment of persons in or to the Foreign Service Reserve or Foreign Service Staff and alien clerks and employees

For the purpose of performing functions under this chapter outside the United States, including participation in binational or multinational foundations or commissions, the Director of the International Communication Agency may employ or assign or authorize the employment or assignment for the duration of operations under this chapter of persons in or to the Foreign Service Reserve or Foreign Service Staff and alien clerks and employees in accordance with applicable provisions of the Foreign Service Act of 1946, as amended [22 U.S.C. 801 et seq.].

(d) Extension of benefits

For the purpose of performing functions under this chapter outside the United States, the Director of the International Communication Agency is authorized to provide that any person employed or assigned by a United States Government agency shall be entitled, except to the extent that the Director of the International Communication Agency may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 928 of this title, for persons appointed to the Foreign Service Reserve and, except for policymaking officials, the provisions of section 807 of this title shall apply in the case of such persons.

(e) Grants; use of funds, counseling service; publicity and promotion abroad

[*See main edition for text of* (*1*) *and* (*2*)]

(3) For the purpose of assisting foreign students in making the best use of their opportunities while attending colleges and universities in the United States, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the Director of the International Communication Agency may make suitable arrangements, by contract or otherwise, for the establishment and maintenance at colleges and universities in the United States attended by foreign students of an adequate counseling service.

(4) The Director of the International Communication Agency is authorized to provide for publicity and promotion (including representation) abroad of activities of the type provided for in this chapter.

[*See main edition for text of* (*f*) *and* (*g*)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (c) and for "President" in subsecs. (d), (e)(3), (4), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except for such functions as are vested by subsecs. (a), (e)(1), (2), (f), (g) of this section, sections 2452(b)(6), (10), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by subsec. (b) of this section and sections 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such functions therein is vested in the President or Secretary of State.

§ 2455. Appropriations

[*See main edition for text of* (*a*) *to* (*d*)]

(e) Reservation and use of sums due or paid by the Republic of Finland

The Director of the International Communication Agency is further authorized to reserve and use for educational and cultural exchange programs and other activities authorized in subsections (a) and (b) of section 2452 of this title, in relation to Finland and the people of Finland, all sums due or paid on and after August 24, 1949, by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the Act of February 25, 1919, as refunded

by the agreement dated May 1, 1923, pursuant to the authority contained in the Act of February 9, 1922, or of any other indebtedness incurred by that Republic and owing to the United States as a result of World War I.

[*See main edition for text of (f) and (g)*]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "President" in subsec. (e) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except (A) for such functions as are vested by subsecs. (a), (b), and (c) of this section, sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2456(a) and 2458 of this title, (B) for such functions as are vested by subsecs. (d)(2) and (f) of this section, sections 2454(b) and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such functions therein is vested in the President or Secretary of State.

§ 2456. Board of Foreign Scholarships

[*See main edition for text of (a)*]

(b) United States Advisory Commission on International Communication, Cultural and Educational Affairs; recommendations; report to Congress; appointment and term of members; Chairman; rules and regulations

(1) The United States Advisory Commission on International Communication, Cultural and Educational Affairs (hereinafter referred to as the "Commission") is established to replace the United States Advisory Commission on Educational Exchange. The Commission shall formulate and recommend to the President policies for exercising his authority under this chapter and shall appraise the effectiveness of programs carried out pursuant to it. The Commission shall make a special study of the effectiveness of past programs with emphasis on the activities of a reasonably representative cross section of past recipients of aid and shall submit a report to the Congress not later than December 31, 1962.

[*See main edition for text of (2) to (6)*]

(c) Omitted

(As amended 1977 Reorg. Plan No. 2, §§ 8(b), 9(a)(6), 42 F.R. 62461, 91 Stat. 1638, 1639.)

CODIFICATION

Former subsec. (c), relating to the continuation of the Advisory Committee on the Arts and the appointment, qualifications, and terms of office of its members, was omitted pursuant to Reorg. Plan No. 2 of 1977, § 9(a)(6), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which abolished the Committee, all functions thereof, and all functions relating thereto.

TRANSFER OF FUNCTIONS

"United States Advisory Commission on International Communication, Cultural and Educational Affairs" was substituted for "United States Advisory Commission on International Educational and Cultural Affairs" in subsec. (b)(1) pursuant to Reorg. Plan No. 2 of 1977, § 8(b), 42 F.R. 62461, 91 Stat. 1638, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Section 9(a)(3) of Reorg. Plan No. 2 of 1977 abolished the United States Advisory Commission on International Educational and Cultural Affairs.

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof under this chapter were transferred to the Director of the International Communication Agency by section 7(a)(2) of Reorg. Plan No. 2 of 1977, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except (A) for such functions as are vested by subsec. (a) of this section, sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c) and 2458 of this title, (B) for such functions as are vested by subsecs. (d) and (f) of this section, sections 2454(b) and 2455(d)(2), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by subsecs. (b) and (c) of this section to the extent that any function therein is vested in the President or Secretary of State.

§ 2457. Reports by Board and Commission

The Board and the Commission shall submit annual reports to the Congress and such other reports to the Congress as they deem appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs authorized by this chapter.

(As amended 1977 Reorg. Plan No. 2, § 9(a)(6), 42 F.R. 62461, 91 Stat. 1639.)

CODIFICATION

Provision relating to the submission of reports to Congress by the Advisory Committee on the Arts was omitted pursuant to Reorg. Plan No. 2 of 1977, § 9(a)(6), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which abolished the Advisory Committee on the Arts, all functions thereof, and all functions relating thereto.

§ 2458. Authority of President

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof under this chapter were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except (A) for such functions as are vested by this section, and sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immedi-

ately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in the President or Secretary of State.

§ 2458a. Federal employee participation in cultural exchange programs

(a) Grants and other foreign government assistance; family or household expense assistance prohibited; "Federal employee" defined

(1) Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such Federal employee in a cultural exchange—

(A) which is of the type described in section 2452(a)(2)(i) of this title,

(B) which is conducted for a purpose comparable to the purpose stated in section 2451 of this title, and

(C) which is specifically approved by the Director of the International Communication Agency for purposes of this section;

but the Congress does not consent to the acceptance by any Federal employee of any portion of any such grant or other form of assistance which provides assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

(b) Foreign grants and other assistance not gifts for purposes of section 7342 of title 5

The grants and other forms of assistance with respect to which the consent of Congress is given in subsection (a) of this section shall not constitute gifts for purposes of section 7342 of title 5.

(c) Regulations

The Director of the International Communication Agency is authorized to promulgate regulations for purposes of this section.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsecs. (a)(1)(C), (c), pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency or the Director thereof, under this chapter, to the Director of the International Communication Agency, except for such functions as are vested by sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such functions therein is vested in the President or Secretary of State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 7342.

CHAPTER 34—THE PEACE CORPS

§ 2502. Presidential authorization; appropriations and financial readjustments

[*See main edition for text of* (a)]

(b) Appropriations; limitations on contracts for research; prohibition on use of funds for Volunteers to America program

There are authorized to be appropriated for the fiscal year 1978 not to exceed $82,900,000 to carry out the purposes of this chapter: *Provided, however,* That not to exceed $500,000 of funds made available hereunder for fiscal year 1967 shall be obligated under contracts or agreements to carry out research: *Provided further,* That no such contracts or agreements shall be executed unless the research in question relates to the basic responsibilities of the Peace Corps. Unobligated balances of funds made available hereunder are hereby authorized to be continued available for the general purposes for which appropriated and may at any time be consolidated with appropriations hereunder. None of the funds authorized to carry out the purposes of this chapter shall be used to carry out the Volunteers to America Program conducted under the Mutual Educational and Cultural Exchange Act of 1961, as amended [22 U.S.C. 2451 et seq.], or any similar program involving the service or training of foreign nationals in the United States.

(c) Appropriations for increases in salary, pay, etc.

In addition to the amount authorized to be appropriated by subsection (b) of this section to carry out the purposes of this chapter, there are authorized to be appropriated for the fiscal year 1978, $1,000,000 for increases in salary, pay, retirement; or other employee benefits authorized by law.

[*See main edition for text of* (d) *to* (f)]

(As amended Pub. L. 95-102, §§ 1, 2, Aug. 15, 1977, 91 Stat. 841.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original this Act, meaning Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-102, § 1, substituted provisions authorizing appropriations for fiscal year 1978 not to exceed $82,900,000 for provisions authorizing appropriations for fiscal year 1976 not to exceed $88,468,000, for the period July 1, 1976, through Sept. 30, 1976, not to exceed $27,887,800, for fiscal year 1977 not to exceed $81,000,000.

Subsec. (c). Pub. L. 95-102, § 2, substituted provisions authorizing additional appropriations for fiscal year 1978 of $1,000,000 for increases in salary, pay, etc., for provisions authorizing additional appropriations for fiscal year 1976 and the period July 1, 1976, through Sept. 30, 1976, not in excess of $1,000,000, and for fiscal year 1977 such sums as may be necessary for increases in salary, pay, etc.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3 of Pub. L. 95-102 provided that: "The amendments made by this Act [amending subsecs. (b) and (c) of this section] shall take effect on October 1, 1977."

CHAPTER 35—ARMS CONTROL AND DISARMAMENT

SUBCHAPTER II—ORGANIZATION

Sec.
2567. Special Representative for Arms Control and Disarmament Negotiations; appointment; powers and duties [New].

SUBCHAPTER III—FUNCTIONS

2577. Verification of Arms Control Agreements [New].
(a) Report to Congress.
(b) Assumptions as to impeding of verification.
(c) Disclosure of sensitive information.

SUBCHAPTER I—GENERAL PROVISIONS

§ 2551. Congressional statement of purpose

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-108, § 1, Aug. 17, 1977, 91 Stat. 871, provided that: "This Act [which enacted sections 2567 and 2577 of this title and amended sections 2571, 2581, and 2589 of this title and section 5315 of Title 5, Government Organization and Employees] may be cited as the 'Arms Control and Disarmament Act Amendments of 1977'."

SUBCHAPTER II—ORGANIZATION

§ 2567. Special Representative for Arms Control and Disarmament Negotiations; appointment; powers and duties

The President may appoint, by and with the advice and consent of the Senate, a Special Representative for Arms Control and Disarmament Negotiations who shall perform such duties and exercise such powers (under the direction of the President and the Secretary of State, acting through the Director) as the Director may prescribe with respect to international arms control and disarmament negotiations and matters relating thereto.

(Pub. L. 87-297, title II, § 27, as added Pub. L. 95-108, § 2(a), Aug. 17, 1977, 91 Stat. 871.)

SUBCHAPTER III—FUNCTIONS

§ 2571. Research, development and other studies

The Director is authorized and directed to exercise his powers in such manner as to insure the acquisition of a fund of theoretical and practical knowledge concerning disarmament. To this end, the Director is authorized and directed, under the direction of the President, (1) to insure the conduct of research, development, and other studies in the field of arms control and disarmament; (2) to make arrangements (including contracts, agreements, and grants) for the conduct of research, development, and other studies in the field of arms control and disarmament by private or public institutions or persons; and (3) to coordinate the research, development, and other studies conducted in the field of arms control and disarmament by or for other Government agencies in accordance with procedures established under section 2575 of this title. In carrying out his responsibilities under this chapter, the Director shall, to the maximum extent feasible, make full use of available facilities, Government and private. The authority of the Director with respect to research, development, and other studies shall be limited to participation in the following insofar as they relate to arms control and disarmament:

[*See main edition for text of* (a) *to* (m)]

(As amended Pub. L. 95-108, § 3, Aug. 17, 1977, 91 Stat. 871.)

AMENDMENTS

1977—Pub. L. 95-108 struck out "United States" preceding "private" in cl. (2) of opening paragraph.

§ 2575. Coordination of Government agencies and resolution of policy differences

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 2576. Arms control impact information and analysis

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (b)(3), was abolished by section 2258 of Title 42, The Public Health and Welfare and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

§ 2577. Verification of Arms Control Agreements

(a) Report to Congress

It is the sense of the Congress that adequate verification of compliance should be an indispensable part of any international arms control agreement. In recognition of such policy and in order to assure that arms control proposals made or accepted by the United States can be adequately verified, the Director shall report to the Congress, on a timely basis, or upon a request by an appropriate committee of the Congress—

(1) in the case of each element of any significant arms control proposal made to a foreign country by the United States, or made to the United States by a foreign country, the determination of the Director as to the degree to which such element can be verified by existing national technical means;

(2) in the case of any arms control agreement or treaty that has entered into force, any significant degradation or alteration in

the capacity of the United States to verify the various components of such agreement or treaty;

(3) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency; and

(4) the amount and percentage of research funds expended by the Agency for the purpose of analyzing issues relating to arms control verification.

(b) Assumptions as to impeding of verification

For purposes of paragraphs (1) and (2) of subsection (a) of this section, the Director shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

(c) Disclosure of sensitive information

Except as otherwise provided by law, nothing in this section shall be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control agreements.

(Pub. L. 87-297, title III, § 37, as added Pub. L. 95-108, § 4, Aug. 17, 1977, 91 Stat. 871.)

SUBCHAPTER IV—ADDITIONAL GENERAL PROVISIONS

§ 2581. General authority of Director

In the performance of his functions, the Director is authorized to—

[*See main edition for text of* (a)]

(b) Employment of personnel

appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5 governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that during the 2-year period beginning on August 17, 1977, the Director may, to the extent he deems necessary to the discharge of his responsibilities, appoint and fix the compensation of officers and employees for the Agency without regard to such provisions, subject to the following requirements:

(1) an officer or employee whose compensation is fixed under the foregoing exception may not be paid a salary at a rate in excess of the rate payable under such chapter 51 and such subchapter III for positions of equivalent difficulty or responsibility except for (A) those officers and employees whose compensation is fixed by law, and (B) scientific and technical personnel who may be compensated at a rate not to exceed the rate in effect for grade GS-18 of the General Schedule;

(2) the Director shall make adequate provision for administrative review of any determination to suspend or dismiss any officer or employee appointed under the foregoing exception; and

(3) an officer or employee of the Agency serving under a career or career conditional appointment on August 17, 1977, may not be involuntarily deprived, while employed by the Agency, of any rights normally granted such officer or employee in the competitive service;

[*See main edition for text of* (c) *to* (f)]

(g) Travel and subsistence expenses from private sources; reimbursement

permit, under such terms and conditions as he may prescribe, any officer or employee of the Agency, in connection with the attendance by such officer or employee at meetings or in performing advisory services concerned with the functions or activities of the Agency, to accept payment, in cash or in kind, from any private agency or organization, or from any individual affiliated with such agency or organization, for travel and subsistence expenses, such payment to be retained by such officer or employee to cover the cost thereof or to be deposited to the credit of the appropriation from which the cost thereof is paid;

(h) Delegation of functions

delegate, as appropriate, to the Deputy Director or other officers of the Agency, any authority conferred upon the Director by the provisions of this chapter; and

(i) Rules and regulations

make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary or desirable to the exercise of any authority conferred upon the Director by the provisions of this chapter.

(As amended Pub. L. 95-108, § 5, Aug. 17, 1977, 91 Stat. 872.)

References in Text

The provisions of title 5 governing appointment to the competitive service, referred to in subsec. (b), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (b), is set out under section 5332 of Title 5.

Amendments

1977—Subsec. (b). Pub. L. 95-108, § 5(a), incorporated existing provisions into introductory paragraph, and as so incorporated, revised terminology to reflect current classification of civil service laws, etc., and added provisions authorizing the Director to appoint and fix compensation of officers and employees of the agency, without regard to the provisions of title 5, during a two-year period beginning Aug. 17, 1977, and added pars. (1) to (3).

Subsec. (g). Pub. L. 95-108, § 5(b)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-108, § 5(b)(1), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95-108, § 5(b)(1), redesignated former subsec. (h) as (i).

§ 2587. Transfer of activities and facilities to Agency; report to Congress; approval

References in Text

Section 913 of title 5, referred to in subsec. (b), was omitted from the Code in the general reenactment and revision of chapter 9 of Title 5, Government Organization and Employees, by Pub. L. 95-17, Apr. 6, 1977, 91 Stat. 29, and covered in part by section 912 of Title 5.

§ 2585. Security requirements

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 2589. Appropriations

(a) Authorization; limitation for certain purposes

To carry out the purposes of this chapter, there are authorized to be appropriated—

(1) for fiscal years 1976 and 1977, the sum of $23,440,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs); and

(2) for fiscal year 1978, the sum of $16,600,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs);

to remain available until expended. Of the sum authorized to be appropriated by this section for the fiscal year 1978, $2,000,000 shall be available only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 95-108, § 6, Aug. 17, 1977, 91 Stat. 873.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-108 substituted provisions authorizing appropriations of $16,600,000 for fiscal year 1978 of which $2,000,000 shall be used only for furthering the nuclear safeguards programs and activities for provisions authorizing appropriations of not to exceed $10,000,000 to carry out the purposes of this chapter and an additional $20,000,000 for fiscal years 1964 and 1965, $30,000,000 for the three fiscal years 1966 through 1968, $18,500,000 for the two fiscal years 1969 through 1970, $17,500,000 for the two fiscal years 1971 and 1972, $22,000,000 for the two fiscal years 1973 and 1974, and $10,100,000 for the fiscal year 1975 and provision that not more than $7,000,000 of the funds appropriated for the fiscal years 1969 through 1970 may be used for research, development, and other studies conducted outside the agency.

CHAPTER 36—MIGRATION AND REFUGEE ASSISTANCE

§ 2601. Refugees and migration

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE

Pub. L. 94-23, §§ 1 to 4, May 23, 1975, 89 Stat. 87, as amended by Pub. L. 94-313, June 21, 1976, 90 Stat. 691; Pub. L. 95-145, title II, §§ 201, 202, Oct. 28, 1977, 91 Stat. 1224, 1225, provided;

"[Section 1] That this Act may be cited as 'The Indochina Migration and Refugee Assistance Act of 1975'.

"SEC. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 [subsec. (b) of this section] with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act [sections 601 et seq. and 1396 et seq. of Title 42, The Public Health and Welfare] for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2)) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 [subsec. (b) of this section] for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

"(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

"(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.

* * * * *

"Sec. 4. (a) The President shall consult with and keep the Committees on the Judiciary, Appropriations, and International Relations of the House of Representatives and the Committees on Foreign Relations, Appropriations and Judiciary of the Senate fully and currently informed of the use of funds and the exercise of functions authorized in this Act.

"(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos."

(c) Repealed. Pub. L. 95-145, title II, § 202(b), Oct. 28, 1977, 91 Stat. 1225.

CHAPTER 38—DEPARTMENT OF STATE

Sec.
2691. Application for nonimmigrant visa by excludible alien [New].
2692. Compensation for persons participating in State Department proceedings; availability of funds [New].
2693. Employment with respect to non-career positions abroad [New].
(a) Family members of Government and Foreign Service personnel.
(b) Career counseling and assistance for spouses of Foreign Service personnel.

Sec.
(c) Exceptions to employment of family members of Foreign Service personnel.
(d) Report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate.
2694. Limitation on purchase of gifts for foreign individuals; report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate [New].

§ 2652. Deputy Secretary of State; Under Secretary of State for Political Affairs; Under Secretary of State for Economic Affairs; Deputy Under Secretary of State; Assistant Secretaries of State

There shall be in the Department of State, in addition to the Secretary of State, a Deputy Secretary of State, an Under Secretary of State for Political Affairs, and Under Secretary of State for Economic Affairs, a Deputy Under Secretary of State, and thirteen Assistant Secretaries of State.

(As amended Aug. 17, 1977, Pub. L. 95-105, title I, § 109(c), 91 Stat. 847.)

AMENDMENTS

1977—Pub. L. 95-105 substituted "thirteen" for "eleven".

ABOLITION OF ONE OFFICE OF ASSISTANT SECRETARY OF STATE

One of the offices of Assistant Secretary of State provided for in this section was abolished by Reorg. Plan No. 2 of 1977, § 9(a)(2), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 2670. Insurance on motor vehicles in foreign countries; tie lines and teletype equipment; ice and drinking water; excise taxes on negotiable instruments; remains of deceased persons; relief, protection, and burial of seamen; acknowledgement of services of foreign vessels and aircraft; rentals and leases

The Secretary of State is authorized to—

[See main edition for text of (a) to (d)]

(e) Omitted;

[See main edition for text of (f) and (g)]

(h) rent or lease, for periods of less than ten years, such offices, buildings, grounds, and living quarters for the use of the Foreign Service abroad as he may deem necessary, and make payments therefor in advance;

(i) maintain, improve, and repair properties rented or leased pursuant to authority contained in subsection (h) of this section and furnish fuel, water, and utilities for such properties; and

(j) provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible.

(As amended June 15, 1977, Pub. L. 95-45, § 2, 91 Stat. 221; 1977 Reorg. Plan No. 2, § 9(a)(7), 42 F.R. 62461, 91 Stat. 1639.)

CODIFICATION

Former subsec. (e), relating to the payment of the actual expenses of preparing and transporting to their former homes the remains of persons, not United States government employees, who die away from their homes while participating in international educational exchange activities under the jurisdiction of the Department of State, was omitted pursuant to Reorg. Plan No. 2 of 1977, § 9(a)(7), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which abolished the functions of the Secretary of State under subsec. (e).

AMENDMENTS

1977—Subsec. (j). Pub. L. 95-45 added subsec. (j).

§ 2673. International Civil Aviation Organization; availability of funds for participation

ANNUAL APPROPRIATION

An annual appropriation to meet the obligations of membership in the International Civil Aviation Organization was contained in the following Department of State Appropriation Act:

Pub. L. 95-86, title I, § 101, Aug. 2, 1977, 91 Stat. 420.

§ 2679a. Death guaranties for certain Foreign Service personnel

[See main edition for text of (a) to (c)]

(d) Definitions

As used in this section—

(1) the term "Foreign Service employee" means any employee of the United States who is a chief of mission, a Foreign Service officer, a Foreign Service information officer, a Foreign Service Reserve officer of limited or unlimited tenure, a Foreign Service staff officer or employee, a consular agent, a United States representative to an international organization or commission, or an alien employee appointed under section 946 of this title;

[See main edition for text of (2), (3)]

(As amended Aug. 17, 1977, Pub. L. 95-105, title IV, § 410(a), 91 Stat. 854.)

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-105 substituted "employee" for "national" and inserted ", or an alien employee appointed under section 946 of this title" following "or commission".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 410(b) of Pub. L. 95-105 provided that: "The amendments made by subsection (a) [amending subsec. (d)(1) of this section] shall apply with respect to deaths occurring on or after August 1, 1974, and any benefits authorized by those amendments shall be paid from funds appropriated after the date of enactment of this Act [Aug. 17, 1977] for salaries and expenses."

§ 2681. International broadcasting facilities; transfer to Department of State; acquisition of property

TRANSFER OF FUNCTIONS

All functions vested in the Secretary of State, the Department of State, or the Director of the United States Information Agency under this section and sections 2682 and 2683 of this title were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(19), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

§ 2682. Liquidation and disposal of broadcasting facilities

Whenever the Director of the International Communication Agency finds that the operation of the facilities authorized by sections 2681 to 2683 of this title to be transferred is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition of such facilities.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(19), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary" pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(19), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State, the Department of State, or the Director of the United States Information Agency under sections 2681, 2682, and 2683 of this title to the Director of the International Communication Agency.

§ 2683. Assumption of obligations of operation of broadcasting facilities

The International Communication Agency shall assume all obligations of the Reconstruction Finance Corporation covering operations of said facilities, equipment, and appurtenant property outstanding at the date of transfer.

(As amended 1977 Reorg. Plan No. 2, § 7(a)(19), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

All functions vested in the Secretary of State, the Department of State, or the Director of the United States Information Agency under sections 2681, 2682, and 2683 of this title were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(19), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. Section 5 of Reorg. Plan No. 2 of 1977 authorized the Director of the International Communication Agency to delegate the performance of any such transferred functions to any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "Department of State".

§ 2691. Application for nonimmigrant visa by excludible alien

For purposes of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for purposes of encouraging other signatory countries to comply with those provisions, the Secretary of State should, within 30 days of receiving an application for a nonimmigrant visa by any alien who is excludible from the United States by reason of membership in or affiliation with a proscribed organization but who is otherwise admissible to the United States, recommend that the Attorney General grant the approval necessary for the issuance of a visa to such alien, unless the Secretary determines that the admission of such alien would be contrary to the security interests of the United States and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate.

(Aug. 1, 1956, ch. 841, § 21, as added Aug. 17, 1977, Pub. L. 95-105, title I, § 112, 91 Stat. 848.)

§ 2692. Compensation for persons participating in State Department proceedings; availability of funds

(a) The Secretary of State may compensate, pursuant to regulations which he shall prescribe, for the cost of participating in any proceeding or on any advisory committee or delegation of the Department of State, any organization or person—

(1) who is representing an interest which would not otherwise be adequately represented and whose participation is necessary for a fair determination of the issues taken as a whole; and

(2) who would otherwise be unable to participate in such proceeding or on such committee or delegation because such organization or person cannot afford to pay the costs of such participation.

(b) Of the funds appropriated for salaries and expenses for the Department of State, not to exceed $250,000 shall be available in any fiscal year for compensation under this section to such organizations and persons.

(Aug. 1, 1956, ch. 841, § 22, as added Aug. 17, 1977, Pub. L. 95-105, title I, § 113(a), 91 Stat. 848.)

EFFECTIVE DATE

Section 113(b) of Pub. L. 95-105 provided that: "Subsection (a) [enacting this section] shall become effective on October 1, 1977."

§ 2693. Employment with respect to non-career positions abroad

(a) Family members of Government and Foreign Service personnel

The Secretary of State shall, when employing persons to fill jobs outside the United States to which career Foreign Service personnel are not customarily assigned, including temporary and local hire jobs, give equal consideration to employing qualified family members of United States Government employees (including family members of Foreign Service personnel) assigned to duties outside the United States. Such employment may not be used to avoid fulfilling the need for fulltime career positions.

(b) Career counseling and assistance for spouses of Foreign Service personnel

To facilitate the employment by the Department of State, or by other employers, of the spouses of Foreign Service personnel, the Secretary may—

(1) provide regular career counseling for such spouses;

(2) maintain a centralized system for cataloging their skills and the various, governmental and nongovernmental, overseas employment opportunities available to such spouses; and

(3) otherwise assist such spouses in obtaining overseas employment.

(c) Exceptions to employment of family members of Foreign Service personnel

Any member of a family of Foreign Service personnel may accept gainful employment in a foreign country unless such employment—

(1) would violate any law of such country or of the United States; or

(2) could, as certified in writing by the Chief of the United States Diplomatic Mission in such country, damage the interests of the United States.

(d) Report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate

Not later than January 1, 1978, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on actions the Department of State has taken to carry out the provisions of this section.

(Pub. L. 95-105, title IV, § 413, Aug. 17, 1977, 91 Stat. 856.)

§ 2694. Limitation on purchase of gifts for foreign individuals; report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate

(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

(Pub. L. 95-105, title V, § 515(b), Aug. 17, 1977, 91 Stat. 866.)

CHAPTER 39—ARMS EXPORT CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2291, 2304, 2318, 2321f, 2321h, 2321i, 2370, 2372, 2394, 2410a, 2414, 2418, 2423, 2429, 2429a of this title.

SUBCHAPTER I—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

§ 2751. Need for international defense cooperation and military export controls; Presidential waiver; report to Congress; arms sales policy

REPORT BY PRESIDENT ON IMPACT OF FOREIGN ARMS SALES AND TRANSFERS TO FOREIGN GOVERNMENTS ON DEFENSE READINESS AND NATIONAL SECURITY OF UNITED STATES

Pub. L. 95-92, § 23, Aug. 4, 1977, 91 Stat. 624, provided that:

"The President shall prepare and submit to the Congress not later than March 15, 1978, a report on the impact of United States foreign arms sales and transfers on United States defense readiness and national security. The report should focus on arms sales since 1972 and discuss the impact of such sales on United States troops stationed overseas. The report shall also include an analysis of United States foreign arms sales and transfers which have involved agreements entered into by the United States for the purchase or acquisition by the United States of defense articles, services, or equipment, or other articles, services, or equipment of any foreign country or international organization in connection with or as consideration for such United States foreign arms sales and transfers, including—

"(1) an analysis of the impact such agreements have had upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States;

"(2) an estimate of the costs incurred by the United States in connection with such agreements compared with the costs which would otherwise have been incurred;

"(3) an estimate of the economic impact and unemployment which have resulted from such agreements; and

"(4) an analysis of whether such costs and such domestic economic impact have justified entering into such agreements."

STUDY BY PRESIDENT OF NATIONAL SECURITY AND MILITARY IMPLICATIONS OF INTERNATIONAL TRANSFERS OF TECHNOLOGY; SCOPE OF STUDY; UTILIZATION OF EXECUTIVE DEPARTMENTS AND AGENCIES; REPORT TO CONGRESS

Pub. L. 95-92, § 24, Aug. 4, 1977, 91 Stat. 624, provided that:

"(a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine—

"(1) the nature of technology transfer;

"(2) the effect of technology transfers on United States technological superiority;

"(3) the rationale for transfers of technology from the United States to foreign countries;

"(4) the benefits and risks of such transfers;

"(5) trends in technology transfers by the United States and other countries;

"(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use

controls, and possible unilateral sanctions if end-use restrictions are violated;

"(7) the effectiveness of existing organizational arrangements in the Executive branch in regulating technology transfers from the United States;

"(8) the adequacy of existing legislation and regulations with respect to transfers of technology from the United States; and

"(9) the possibilities for international agreements with respect to transfers of technology.

"(b) In conducting the study required by subsection (a), the President shall utilize the resources and expertise of the Arms Control and Disarmament Agency, the Department of State, the Department of Defense, the Department of Commerce, the National Science Foundation, the Office of Science and Technology Policy, and such other entities within the Executive branch as he deems necessary.

"(c) Not later than the end of the one-year period beginning on the date of enactment of this section [Aug. 4, 1977], the President shall submit to the Congress a report setting forth in detail the findings made and conclusions reached as a result of the study conducted pursuant to subsection (a), together with such recommendations for legislation and administrative action as the President deems appropriate."

STATEMENT OF POLICY REGARDING UNITED STATES ARMS SALES TO ISRAEL

Pub. L. 95-92, § 26, Aug. 4, 1977, 91 Stat. 625, provided that: "In accordance with the historic special relationship between the United States and Israel and previous agreements and continuing understandings, the Congress joins with the President in reaffirming that a policy of restraint in United States arms transfers, including arms sales ceilings, shall not impair Israel's deterrent strength or undermine the military balance in the Middle East."

REVIEW BY PRESIDENT OF CATEGORIES AND ARMS SALES CONTROLS ON LETHAL AND NONLETHAL ITEMS

Pub. L. 95-92, § 27, Aug. 4, 1977, 91 Stat. 626, provided that: "The President shall undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and non-lethal products and establishing the appropriate level of control for each category."

STUDY BY SECRETARIES OF STATE AND DEFENSE ON CONSEQUENCES OF ENACTMENT OF ARMS EXPORT CONTROL PROVISIONS

The Secretary of State, in consultation with the Secretary of Defense, was directed by section 218 of Pub. L. 94-329 to study the effects of the enactment of the arms export control provisions in title II of Pub. L. 94-329 (enacting sections 2765 and 2778 of this title, amending sections 2314, 2321, 2394, 2417, 2751, 2752, 2753, 2761, 2762, 2763, 2771, 2776, 2791, 2792, and 2794 of this title, repealing section 1934 of this title, and enacting provisions set out as notes under sections 1934, 2314, 2321, 2751, 2753, 2763, 2776, and 2778 of this title) in relation to the United States foreign policy, the balance of payments, foreign trade, unemployment in this country, and weapons procurement by the Department of Defense. The Secretary of State was to submit his report and recommendations to the President and Congress within one year after June 30, 1976.

STUDY OF UNITED STATES ARMS SALES POLICIES AND PRACTICES BY PRESIDENT; REPORT TO CONGRESS

Section 202(b) of Pub. L. 94-329 directed the President to study the arms sales policies and practices of the United States with respect to commercial arms sales to determine if a change was needed. The study was to consider the benefits to the United States, the risks to world peace, trends in arms sales, steps to limit arms sales, and the impact of such sales on the economic and social development of foreign countries. The President was required to report to Congress his findings, conclusions, and recommendations no later than the end of the one year period beginning on June 30, 1976.

PRESIDENTIAL REPORT REGARDING SALES OF EXCESS DEFENSE ARTICLES TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Section 217 of Pub. L. 94-329 required the President, not later than Feb. 28, 1977, to transmit to the Speaker of the House of Representatives and the Committee of Foreign Relations of the Senate, a full and complete report regarding all sales of excess defense articles to foreign governments and international organizations made under this chapter between July 1, 1976 and Dec. 31, 1976.

§ 2753. Eligibility for defense services or defense articles

[See main edition for text of (a)]

(b) Repealed. Pub. L. 95-92, § 15, Aug. 4, 1977, 91 Stat. 622

[See main edition for text of (c)]

(d) Submission of written certification to Congress; contents; classified material; effective date of consent; transfers not subject to procedures

(1) The President may not give his consent under paragraph (2) of subsection (a) of this section or under the third sentence of such subsection to a transfer of a defense article, or related training or other defense service, sold under this chapter and may not give his consent to such a transfer under section 2314(a)(1) or (a)(4) of this title unless the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A) the name of the country or international organization proposing to make such transfer,

(B) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service,

(C) the name of the proposed recipient of such defense article or related training or other defense service,

(D) the reasons for such proposed transfer, and

(E) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this subsection shall be unclassified, except that information regarding the dollar value and number of defense articles, or related training or other defense services, proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2) Unless the President states in the certification submitted pursuant to this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days

after the date of such submission and such consent shall become effective then only if the Congress does not adopt, within such 30-day period, a concurrent resolution disapproving the proposed transfer.

(3) This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C) to cooperative cross servicing arrangements among members of the North Atlantic Treaty Organization.

[*See main edition for text of* (e)]

(f) Sales, credits, and guarantees to counties granting sanctuary to international terrorists; prohibitions; ineligibility period; report by President for continuation

(1) Unless the President finds that the national security requires otherwise, he shall terminate all sales, credits, and guaranties under this chapter to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may not thereafter make or extend sales, credits, or guaranties to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for sales, credits, and guaranties pursuant to this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

(2) If the President finds that the national security justifies a continuation of sales, credits, or guaranties to any government described in paragraph (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(As amended Pub. L. 95-92, §§ 15-18, Aug. 4, 1977, 91 Stat. 622.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-92, § 15, struck out subsec. (b) which related to prohibitions on sales, etc., to countries seizing or fining American fishing vessels for fishing in waters more than twelve miles from their coastlines.

Subsec. (d). Pub. L. 95-92, §§ 16, 17, redesignated existing provisions as par. (1) and, as so redesignated, struck out ", 30 days prior to giving such consent," preceding "the President submits", redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, and added pars. (2) and (3).

Subsec. (f). Pub. L. 95-92, § 18, added subsec. (f).

§ 2755. Discrimination prohibited if based on race, religion, national origin, or sex

[*See main edition for text of* (a) *to* (c)]

(d) Congressional request for information from President; information required; 60 day period; failure to supply information; termination or restriction of sale

(1) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

[*See main edition for text of* (A) *to* (D), (2) *and* (3)]

(As amended Pub. L. 95-105, title I, § 109(a)(5), Aug. 17, 1977, 91 Stat. 846.)

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-105 substituted "Assistant Secretary of State" for "Coordinator" in provisions preceding subpar. (A).

SUBCHAPTER II—FOREIGN MILITARY SALES AUTHORIZATIONS

§ 2761. Sales from stocks

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2321i, 2751, 2775, 2776, 2777, 2791, 2792 of this title.

§ 2762. Procurement for cash sales; dependable undertaking by foreign country or international organization; interest rates; issuance of letters of offer under emergency determination; availability of appropriations for payment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2751, 2775, 2776, 2777, 2779, 2791 of this title.

SUBCHAPTER III—MILITARY EXPORT CONTROLS

§ 2771. Military sales authorizations and ceilings

(a) Authorization for foreign military sales credit and guarantee program

There is authorized to be appropriated to the President to carry out this chapter not to exceed $677,000,000 for the fiscal year 1978. Unobligated balances of funds made available pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this chapter.

(b) Aggregate ceiling on foreign military sales credits

The aggregate total of credits, or participations in credits, extended pursuant to this chapter and of the principal amount of loans guaranteed pursuant to section 2764(a) of this title shall not exceed $2,102,350,000 for the fiscal year 1978, of which not less than $1,000,000,000 shall be available only for Israel.

(c) Funds to finance procurement of defense articles and defense services by Israel; repayment period; release of Israel from contractual obligation to repay

Funds made available for the fiscal year 1978 under subsection (a) of this section shall be obligated to finance the procurement of defense articles and defense services by Israel on a long-term repayment basis either by the extension of credits, without regard to the limitations contained in section 2763 of this title, or by the issuance of guaranties under section 2764 of this title. Repayment shall be in not less than twenty years, following a grace period of ten years on repayment of principal. Israel shall be released from one-half of its contractual liability to repay the United States Government with respect to defense articles and defense services so financed for such year.

[*See main edition for text of* (*d*)]

(As amended Pub. L. 95-92, § 19, Aug. 4, 1977, 91 Stat. 623.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-92, § 19(1), substituted "$677,000,000 for the fiscal year 1978" for "$1,039,000,000 for the fiscal year 1976 and not to exceed $740,000,000 for the fiscal year 1977".

Subsec. (b). Pub. L. 95-92, § 19(2), substituted "$2,102,350,000 for the fiscal year 1978" for "$2,374,700,000 for the fiscal year 1976, of which not less than $1,500,000,000 shall be available only for Israel, and shall not exceed $2,022,100,000 for the fiscal year 1977".

Subsec. (c). Pub. L. 95-92, § 19(3), substituted "year 1978" for "years 1976 and 1977" and struck out "each" preceding "such year".

§ 2776. Reports and certifications to Congress on military exports

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2370, 2778 of this title.

§ 2778. Control of arms exports and imports

[*See main edition for text of* (*a*)]

(b) Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services; exceptions; procedures applicable

[*See main edition for text of* (*1*) *and* (*2*)]

(3) No license may be issued under this chapter for the export of any major defense equipment sold under a contract in the amount of $25,000,000 or more to any foreign country which is not a member of the North Atlantic Treaty Organization unless such major defense equipment was sold under this chapter. The prohibition contained in the first sentence of this paragraph shall not apply to the issuance of licenses under this section for the export of major defense equipment to Australia, Japan, or New Zealand, or major defense equipment sold commercially in implementation of an agreement between the United States Government and the government of a foreign country for the production of the major defense equipment to which such licenses relate if the President has submitted a certificate with respect to such proposed agreement, prior to its signature, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate in the same form as the certification required under section 2776(b) of this title and subject to the requirements of such section.

[*See main edition for text of* (*c*) *to* (*e*)]

(As amended Pub. L. 95-92, § 20, Aug. 4, 1977, 91 Stat. 623.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-92 added provisions relating to exceptions to prohibitions against issuance of licences under this section and procedures applicable for implementation of such exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2304, 2372, 2751, 2776, 2779, 2791, 2794 of this title; title 26 section 5847.

SUBCHAPTER IV—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

§ 2792. Administrative expenses

[*See main edition for text of* (*a*)]

(b) Charges for administrative services calculated under section 2761(e)(1)(A) of this title shall include recovery of administrative expenses incurred by any department or agency of the United States Government, including any mission or group thereof, in carrying out functions under this chapter when—

(1) such functions are primarily for the benefit of any foreign country; and

(2) such expenses are not directly and fully charged to, and reimbursed from amounts received for, sale of defense services under section 2761(a) of this title.

(As amended Pub. L. 95-92, § 7(d), Aug. 4, 1977, 91 Stat. 617.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-92 substituted provisions relating to criteria for recovery of charges for administrative expenses calculated under section 2761(e)(1)(A) of this title, for provisions relating to reimbursement from amounts received for sales under sections 2761 and 2762 of this title of administrative expenses incurred by a United States government department or agency in carrying out functions under this chapter for the benefit of any foreign country.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2321i of this title.

CHAPTER 43—INTERNATIONAL BROADCASTING

§ 2871. Congressional findings and declaration of purpose

The Congress finds and declares—

[*See main edition for text of (1) and (2)*]

(3) that Free Europe, Incorporated, and the Radio Liberty Committee, Incorporated (commonly referred to as Radio Free Europe and Radio Liberty), which have now been consolidated into RFE/RL, Incorporated, having demonstrated their effectiveness in furthering the open communication of information and ideas in Eastern Europe and the Union of Soviet Socialist Republics;

(4) that the continuation of RFE/RL, Incorporated, as an independent broadcast media, operating in a manner not inconsistent with the broad foreign policy objectives of the United States and in accordance with high professional standards, is in the national interest; and

(5) that in order to provide an effective instrumentality for the continuation of assistance to RFE/RL, Incorporated and to encourage a constructive dialog with the peoples of the Union of Soviet Socialist Republics and Eastern Europe, it is desirable to establish a Board for International Broadcasting.

(As amended Pub. L. 95-105, title III, § 302(a), Aug. 17, 1977, 91 Stat. 851.)

AMENDMENTS

1977—Par. (3). Pub. L. 95-105, § 302(a)(1), substituted "(commonly referred to as Radio Free Europe and Radio Liberty), which have now been consolidated into RFE/RL, Incorporated," for "(hereinafter referred to as Radio Free Europe and Radio Liberty),".

Par. (4). Pub. L. 95-105, § 302(a)(2), substituted "RFE/RL, Incorporated, as an" for "Radio Free Europe and Radio Liberty as".

Par. (5). Pub. L. 95-105, § 302(a)(3), substituted "RFE/RL, Incorporated" for "Radio Free Europe and Radio Liberty".

§ 2872. Board for International Broadcasting

[*See main edition for text of (a)*]

(b)(1) Composition

The Board shall consist of six members, one of whom shall be an ex officio member. The President shall appoint, by and with the advice and consent of the Senate, five voting members, one of whom he shall designate as chairman. Not more than three of the members of the Board appointed by the President shall be of the same political party. The chief operating executive of RFE/RL, Incorporated, shall be an ex officio member of the Board and shall participate in the activities of the Board, but shall not vote in the determinations of the Board.

[*See main edition for text of (2) and (3)*]

(4) Term of office of ex officio member

The ex officio member of the Board shall serve on the Board during his term of service as chief operating executive of RFE/RL, Incorporated.

[*See main edition for text of (5); (c)*]

(As amended Pub. L. 95-105, title III, § 302(b), Aug. 17, 1977, 91 Stat. 851.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-105, § 302(b)(1), substitued "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty".

Subsec. (b)(4). Pub. L. 95-105, § 302(b)(2), substituted "RFE/RL, Incorporated" for "Radio Free Europe and Radio Liberty".

§ 2873. Functions of Board

(a) The Board is authorized:

(1) to make grants to RFE/RL, Incorporated, in order to carry out the purposes set forth in section 2871 of this title;

(2) to review and evaluate the mission and operation of RFE/RL, Incorporated, and to assess the quality, effectiveness and professional integrity of its broadcasting within the context of the broad foreign policy objectives of the United States;

(3) to encourage the most efficient utilization of available resources by RFE/RL, Incorporated, and to undertake, or request that RFE/RL, Incorporated, undertake, such studies as may be necessary to identify areas in which the operations of RFE/RL, Incorporated, may be made more efficient and economical;

(4) to develop and apply such financial procedures, and to make such audits of RFE/RL, Incorporated, as the Board may determine are necessary, to assure that grants are applied in accordance with the purposes for which such grants are made;

[*See main edition for text of (5) to (7)*]

(8) to report annually to the President and the Congress on or before the 31st day of January, summarizing the activities of the Board during the year ending the preceding September 30, and reviewing and evaluating the operation of RFE/RL, Incorporated, during such year; and

(9) to prescribe such regulations as the Board deems necessary to govern the manner in which its functions shall be carried out.

(b) In carrying out the foregoing functions, the Board shall bear in mind the necessity of maintaining the professional independence and integrity of RFE/RL, Incorporated.

(As amended Pub. L. 95-105, title III, § 302(c), Aug. 17, 1977, 91 Stat. 851.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-105, § 302(c)(1), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty".

Subsec. (a)(2). Pub. L. 95-105, § 302(c)(2), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty," and "its" for "their".

Subsec. (a)(3). Pub. L. 95-105, § 302(c)(3), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty" in three places.

Subsec. (a)(4). Pub. L. 95-105, § 302(c)(4), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty".

Subsec. (a)(8). Pub. L. 95-105, § 302(c)(5), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty".

Subsec. (b). Pub. L. 95-105, § 302(c)(6), substituted "RFE/RL, Incorporated" for "Radio Free Europe and Radio Liberty".

§ 2874. Recordkeeping requirements for RFE/RL, Incorporated

(a) Amounts and disposition of assistance; costs; portion of costs supplied by other sources; other records

The Board shall require that RFE/RL, Incorporated, keep records which fully disclose the amount and disposition of assistance provided under this chapter, the total cost of the undertakings or programs in connection with which such assistance is given or used, that portion of the cost of the undertakings or programs supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access to records for audit and examination

The Board and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of RFE/RL, Incorporated, which, in the opinion of the Board or the Comptroller General, may be related or pertinent to the assistance provided under this chapter.

(c) Disclosure of persons and governments making contributions

No grant may be made under this chapter unless RFE/RL, Incorporated, agrees to make available, and does make available, for public inspection, during normal business hours at its principal office in the United States, a complete list of every person and government making a contribution to RFE/RL, Incorporated, during the fiscal year preceding the making of the grant and the fiscal year in which the grant is to be made, the address of the person or government making the contribution, the amount of each such contribution, and the date the contribution was made.

(As amended Pub. L. 95-105, title III, § 302(d), Aug. 17, 1977, 91 Stat. 852.)

CODIFICATION

In subsec. (c) "REF/RL, Incorporated" was changed to read "RFE/RL, Incorporated" as the probable intent of Congress.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-105, § 302(d)(1), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty".

Subsec. (b). Pub. L. 95-105, § 302(d)(2), substituted "RFE/RL, Incorporated," for "Radio Free Europe and Radio Liberty".

Subsec. (c). Pub. L. 95-105, § 302(d)(3), substituted "RFE/RL, Incorporated," for "the radio to which the grant is to be made" and "RFE/RL, Incorporated," for "that radio".

§ 2877. Authorization of appropriations; fluctuations in foreign currency exchange rates affecting budgeted level of operation of Radio Free Europe and Radio Liberty

(a) There are authorized to be appropriated to carry out the purposes of this chapter for fiscal year 1978—

(1) $68,980,000, of which $5,000,000 shall be available only to the extent that the Director of the Office of Management and Budget determines (and so certifies to the Congress) is necessary, because of downward fluctuations in foreign currency exchange rates in order to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty; and

(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

Amounts appropriated under this section are authorized to remain available until expended.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-105, title III, § 301, Aug. 17, 1977, 91 Stat. 851.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-105 substituted in provisions preceding par. (1) "1978" for "1977" and in par. (1) "$68,980,000" for "$58,385,000".

CHAPTER 46—INTERNATIONAL INVESTMENT SURVEY

§ 3101. Congressional statement of findings and declaration of purpose

EX. ORD. NO. 11961. ADMINISTRATION OF CHAPTER

Ex. Ord. No. 11961, Jan. 19, 1977, 42 F.R. 4321, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, provided:

* * * * *

SEC. 4. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of Commerce shall perform the functions set forth in Sections 4(a)(3) and (5)(c) of the Act [sections 3103(a)(3) and 3104(e) of this title].

§ 3106. Use of experts and administrative support services; compensation and travel expenses; use of available federal agency services, equipment, personnel, and facilities

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (a), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

§ 3107. Consultations; creation of independent public advisory committees; review and annual report to Congress

EXECUTIVE ORDER NO. 11962

Ex. Ord. No. 11962, Jan. 19, 1977, 42 F.R. 4323, set out as a note under this section in the 1976 edition to this Code, which established the President's Advisory Board on International Investment, was revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, set out as a note under section 14 of Appendix of Title 5, Government Organization and Employees.

TITLE 23—HIGHWAYS

This title was enacted by Pub. L. 85-767, § 1, Aug. 27, 1958, 72 Stat. 885.

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 42 section 7506.

CHAPTER 1—FEDERAL-AID HIGHWAYS

§ 107. Acquisition of rights-of-way—Interstate System

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1770.

§ 109. Standards

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (j), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

§ 134. Transportation planning in certain urban areas

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 7504, 7506.

CHAPTER 3—GENERAL PROVISIONS

§ 317. Appropriation for highway purposes of lands or interests in lands owned by the United States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1770.

CHAPTER 4—HIGHWAY SAFETY

§ 402. Highway safety programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 153, 403, 404, 406 of this title; title 42 section 7544.

CHAPTER 4—SAINT ELIZABETHS HOSPITAL

§ 165. Superintendent; disbursing agent; pension money of inmates

The chief executive officer of Saint Elizabeths Hospital shall be a superintendent, who shall be appointed by the Secretary of Health, Education, and Welfare. The superintendent shall be a well-educated physician, possessing competent experience in the care and treatment of the insane; he shall reside on the premises and devote his whole time to the welfare of the institution; he shall, subject to the approval of the Secretary of Health, Education, and Welfare, appoint a responsible disbursing agent for the institution, and the said superintendent shall engage and discharge all needful and useful employees in the care of the insane and all laborers on the farm and determine their wages and duties. The said disbursing agent, under the direction of the superintendent, shall have the custody of and pay out all moneys appropriated by Congress for Saint Elizabeths Hospital, or otherwise received for the purposes of the hospital, and all moneys received by the superintendent in behalf of the hospital or its patients, and keep an accurate account or accounts thereof. The said disbursing agent shall deposit in the Treasury of the United States, under the direction of the superintendent, all funds now in the hands of the superintendent or which may be intrusted to him by or for the use of patients, which will be kept in a separate account; and the said disbursing agent is authorized to draw therefrom, under the direction of the said superintendent, from time to time, under such regulations as the Secretary of Health, Education, and Welfare may prescribe, for the use of such patients, but not to exceed for any one patient the amount intrusted to the superintendent on account of such patient. With the approval of the Secretary of the Treasury, the disbursing agent may invest funds of the account in excess of current needs in interest-bearing obligations of the United States with maturities suitable for the needs of the account, and any interest on such investment shall be credited to and form a part of the account. During the time that any pensioner shall be an inmate of Saint Elizabeths Hospital all money due or becoming due upon his or her pension shall be paid by the Veterans' Administration to the superintendent or disbursing agent of the hospital, upon a certificate by such superintendent that the pensioner is an inmate of the hospital and is living, and such pension money shall be by said superintendent or disbursing agent disbursed and used, under regulations to be prescribed by the Secretary of Health, Education, and Welfare, for the benefit of the pensioner, and, in case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any, in the order named, and to pay his or her board and maintenance in the hospital, the remainder of such pension money, if any, to be placed to the credit of the pensioner and to be paid to the pensioner or the guardian of the pensioner in the event of his or her discharge from the hospital; or, in the event of the death of said pensioner while an inmate of said hospital, shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife nor minor children, then the said unexpended balance to his or her credit shall be applied to the general uses of said hospital: *Provided,* That in the case of any pensioner transferred to the hospital from the National Home for Disabled Volunteer Soldiers any pension money to his credit at said home at the time of his said transfer shall be transferred with him to said hospital and placed to his credit therein, to be expended as provided in this section, and in case of his return from said hospital to the home any balance to his credit at said hospital shall in like manner be transferred to said home, to be expended in accordance with the rules established in regard thereto.

(As amended Dec. 19, 1977, Pub. L. 95-215, § 9, 91 Stat. 1508.)

AMENDMENTS

1977—Pub. L. 95-215 provided that, with the approval of the Secretary of the Treasury, the disbursing agent may invest funds of the account in excess of current needs in interest-bearing obligations of the United States with maturities suitable for the needs of the account, and any interest on such investment shall be credited to and form a part of the account.

TITLE 25—INDIANS

CHAPTER 2A—INDIAN CLAIMS COMMISSION

Sec.
70v-3. Cases transferred to United States Court of Claims [New].
(a) Attorney fees and expenses.
(b) Information from governmental departments and official records as evidence.
(c) Payment of final judgments.
(d) Review.
(e) Expert assistance for claimants in preparation and trial of claims in transferred cases.

§ 70m. Information from governmental departments; official records as evidence

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70v-3 of this title.

§ 70n. Attorneys of claimants; selection, practice, and fees; Attorney General to represent United States; compromise of claims

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70v-3 of this title.

§ 70n-1. Expert assistance for preparation and trial of claims; revolving fund established for loans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70n-2, 70n-4, 70n-5, 70v-3 of this title.

§ 70n-2. Inability of applicants to pay for assistance required; denial of loans in cases of unreasonable fees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70n-4, 70n-5, 70v-3 of this title.

§ 70n-4. Interest; repayment from judgments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70n-2, 70n-5, 70v-3 of this title.

§ 70n-5. Crediting to revolving fund of repayments and interest

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70n-2, 70n-4, 70v-3 of this title.

§ 70n-6. Liability of United States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70n-2, 70n-4, 70n-5, 70v-3 of this title.

§ 70n-7. Approval of contingent fee contracts prohibited

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70n-2, 70n-4, 70n-5, 70v-3 of this title.

§ 70s. Judicial review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70v-3 of this title.

§ 70v-3. Cases transferred to United States Court of Claims

(a) Attorney fees and expenses

The powers of the Commission set forth in the first paragraph of section 70n of this title, relative to fees and expenses for any attorney or attorneys for any tribe, band, or other identifiable group of Indians, shall be exercised by the United States Court of Claims with respect to any case transferred pursuant to this chapter.

(b) Information from governmental departments and official records as evidence

The powers of the Commission set forth in section 70m of this title, relating to information from governmental departments and official records as evidence, may be exercised by the United States Court of Claims with respect to any case transferred pursuant to this chapter.

(c) Payment of final judgments

Final judgments rendered by the United States Court of Claims on cases transferred to it pursuant to this chapter, shall be paid in the same manner as other judgments of the court in accordance with the provisions of sections 2517 and 2518 of title 28.

(d) Review

Cases transferred to the United States Court of Claims pursuant to this chapter, shall be thereafter subject to review by the Supreme Court in accordance with the provisions of section 1255 of title 28: *Provided*, That any decision of the Commission rendered in a case prior to its transfer, which could have been appealed pursuant to the provisions of section 70s of this title, shall be appealable to the Court of Claims subject to such provisions: *Provided further*,

That such provisions shall not otherwise be applicable to transferred cases.

(e) Expert assistance for claimants in preparation and trial of claims in transferred cases

The provisions of sections 70n-1 to 70n-7 of this title shall continue and shall be in effect with respect to all cases transferred to the United States Court of Claims pursuant to this chapter.

(Aug. 13, 1946, ch. 959, § 29, as added July 20, 1977, Pub. L. 95-69, § 2, 91 Stat. 273.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (c), (d), (e), was, in the original, this Act, meaning act Aug. 13, 1946, ch. 959, 60 Stat. 1049, which enacted this chapter, amended section 259 of former Title 28, Judicial Code and Judiciary, and enacted provisions set out as notes under section 70 of this title. For complete classification of this Act to the Code, see Tables.

Section 70n-3 of this title, included in the reference in subsec. (e) to sections 70n-1 to 70n-7 of this title, was repealed by Pub. L. 93-608, § 1(16), Jan. 2, 1975, 88 Stat. 1970.

CHAPTER 5—PROTECTION OF INDIANS

§ 174. Superintendence by President over tribes west of Mississippi

AMERICAN INDIAN POLICY REVIEW COMMISSION

Pub. L. 93-580, Jan. 2, 1975, 88 Stat. 1910, as amended by Pub. L. 94-80, §§ 1-4, Aug. 9, 1975, 89 Stat. 415, 416; Pub. L. 95-5, Feb. 17, 1977, 91 Stat. 13, provided:

* * * * *

"REPORT OF THE COMMISSION

"SEC. 5. (a) Upon the report of the task forces made pursuant to section 4 hereof, the Commission shall review and compile such reports, together with its independent findings, into a final report. Within nine months after the reports of the investigating task forces, the Commission shall submit its final report, together with recommendations thereon, to the President of the Senate and the Speaker of the House of Representatives. The Commission shall cease to exist three months after submission of said final report but not later than June 30, 1977. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

* * * * *

"[AUTHORIZATION OF APPROPRIATIONS]

"SEC. 7. There is hereby authorized to be appropriated a sum not to exceed $2,600,000 to carry out the provisions of this resolution. Until such time as funds are appropriated pursuant to this section, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the maximum amount authorized herein."

CHAPTER 14—MISCELLANEOUS

SUBCHAPTER XXX-A—SILETZ INDIAN TRIBE: RESTORATION OF FEDERAL SUPERVISION [NEW]

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711. Definitions.
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SUBCHAPTER II—INDIAN SELF-DETERMINATION

§ 450. Congressional statement of findings

ACT REFERRED TO IN OTHER SECTIONS

The Indian Self-Determination and Education Assistance Act is referred to in title 42 section 5302.

§ 450b. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 3371; title 7 section 2012.

§ 450f. Contracts by Secretary of the Interior with tribal organizations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450h, 450j, 450m of this title; title 7 section 2020; title 20 section 2303; title 42 section 2204b.

§ 450g. Contracts by Secretary of Health, Education, and Welfare with tribal organizations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450h, 450j, 450m of this title; title 7 section 2020; title 20 section 2303; title 42 section 2004b.

§ 450h. Grants to tribal organizations or tribes

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450j, 450m of this title; title 7 section 2020; title 20 section 2303; title 42 section 2004b.

§ 450i. Retention of Federal employee coverage, rights and benefits by employees of tribal organizations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2020; title 20 section 2303.

§ 450j. Contract or grant provisions and administration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2020; title 20 section 2303.

§ 450k. Rules and regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450h, 450j of this title; title 7 section 2020; title 20 section 2303.

§ 450*l*. Report by tribe requesting contract or grant; contents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2020; title 20 section 2303.

§ 450m. Rescission of contract or grant and assumption of control of program, etc.; authority; grounds; procedure; correction of violation as prerequisite to new contract or grant agreement; construction with occupational safety and health requirements

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2020; title 20 section 2303.

§ 450n. Sovereign immunity and trusteeship rights unaffected

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2020; title 20 section 2303.

SUBCHAPTER V—PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES

§ 461. Allotment of land on Indian reservations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 462. Existing periods of trust and restrictions on alienation extended

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 463. Restoration of lands to tribal ownership; protection of existing rights; Papago Indian Reservation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 464. Transfer of restricted Indian lands or shares in assets of Indian tribes or corporation; exchange of lands

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 465. Acquisition of lands, water rights or surface rights; appropriation; title to lands; tax exemption

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 463b, 464, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 466. Indian forestry units; rules and regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 467. New Indian reservations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 468. Allotments or holdings outside of reservations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 469. Indian corporations; appropriation for organizing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 470a, 473, 473a, 474, 475,

475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 470. Revolving fund; appropriation for loans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 671, 674, 676, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 471. Vocational and trade schools; appropriation for tuition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 472. Standards for Indians appointed to Indian Office

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 473. Application of sections

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 474. Continuation of allowances

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 475. Claims or suits of Indian tribes against United States; rights unimpaired

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 476. Organization of Indian tribes; constitution and bylaws; special election

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 70n, 324, 390, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 711d, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 16 section 803; title 43 section 1615.

§ 477. Incorporation of Indian tribes; charter; ratification by election

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 478. Acceptance of sections 461 to 479 optional

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

§ 479. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 480, 482, 483, 488, 503, 504, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

SUBCHAPTER XXX—WESTERN OREGON INDIANS: TERMINATION OF FEDERAL SUPERVISION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 711a of this title.

SUBCHAPTER XXX-A—SILETZ INDIAN TRIBE: RESTORATION OF FEDERAL SUPERVISION

§ 711. Definitions

For the purposes of this subchapter—

(1) the term "tribe" means the Confederated Tribes of Siletz Indians of Oregon;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "Interim Council" means the council elected pursuant to section 711c of this title;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 711b of this title; and

(5) the term "final membership roll" means the final membership roll of the tribe published on July 20, 1956, on pages 5454-5462 of volume 21 of the Federal Register.

(Pub. L. 95-195, § 2, Nov. 18, 1977, 91 Stat. 1415.)

SHORT TITLE

Section 1 of Pub. L. 95-195 provided: "That this Act [enacting this subchapter] may be cited as the 'Siletz Indian Tribe Restoration Act' ".

§ 711a. Federal recognition

(a) Extension; laws applicable; eligibility for Federal services and benefits

Federal recognition is extended to the tribe, and the provisions of sections 461, 462, 463, 464, 465, 466 to 470, 471 to 473, 474, 475, 476 to 478,

and 479 of this title, except as inconsistent with specific provisions of this subchapter, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon November 18, 1977, without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(b) Restoration of rights and privileges

Except as provided in subsection (c) of this section, all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under subchapter XXX of this chapter, are hereby restored, and such subchapter shall be inapplicable to the tribe and to members of the tribe after November 18, 1977.

(c) Hunting, fishing or trapping rights and tribal reservations not restored

This subchapter shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe, nor shall it be construed as granting, establishing, or restoring a reservation for the tribe.

(d) Effect on property rights or obligations, contractual rights or obligations, or obligations for taxes

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(Pub. L. 95-195, § 3, Nov. 18, 1977, 91 Stat. 1415.)

REFERENCES IN TEXT

Subchapter XXX [§ 691 et seq.] of this chapter, referred to in subsec. (b), was in the original a reference to the Act of Aug. 13, 1954 (68 Stat. 724).

§ 711b. Membership roll

(a) Opening; duty of Secretary, Interim Council, and tribal officials

The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b) Prerequisites for inclusion

(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on August 13, 1954, to be on the final membership roll but his name was not listed on that roll; or

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Siletz Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

(c) Verification of descendancy, age, and blood; appeal; finality of determination; possession of enrollment records and materials

(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and any other material relating to enrollment matters, to the tribal governing body.

(d) Franchisement

For purposes of sections 711c and 711d of this title, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

(Pub. L. 95-195, § 4, Nov. 18, 1977, 91 Stat. 1416.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 711, 711c, 711d of this title.

§ 711c. Interim Council

(a) Nomination and election of members; notice; meetings; ballot requirements; approval by Secretary

Within forty-five days after November 18, 1977, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after November 18, 1977. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect nine members of the tribe to the Interim Council from among the nominees submitted to him from such general council

meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 711b(d) of this title at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) Powers of Council

The Interim Council shall represent the tribe and its members in the implementation of this subchapter and shall be the acting tribal governing body until tribal officials are elected pursuant to section 711d(c) of this title and shall have no powers other than those given to it in accordance with this subchapter. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members and to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office: *Provided,* That no authority to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Council vacancies; notice; meeting; election

Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 711b(d) of this title at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

(Pub. L. 95-195, § 5, Nov. 18, 1977, 91 Stat. 1416.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 711, 711b of this title.

§ 711d. Tribal constitution and bylaws

(a) Election; time and procedure

Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 476 of this title, for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with section 711b(a), (b)(1), and (c)(1) of this title,

(2) made a final determination of all appeals filed under section 711b(c)(2) of this title, and

(3) published in the Federal Register a certification copy of the membership roll of the tribe.

(b) Pre-election distribution of proposed constitution and bylaws and brief impartial description; consultation by Interim Council with members of tribe

The Interim Council shall draft and distribute to each member described in section 711b(d) of this title, no later than thirty days before the election under subsection (a) of this section, a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) Majority vote necessary for adoption of constitution and bylaws

In any election held pursuant to subsection (a) of this section, the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Election of tribal officials provided for in constitution and bylaws; ballot requirements

Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

(Pub. L. 95-105, § 6, Nov. 18, 1977, 91 Stat. 1417.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 711b, 711c, 711e of this title.

§ 711e. Reservation

(a) Establishment

Any reservation for the tribe shall be established by an Act of Congress enacted after November 18, 1977.

(b) Plan; negotiation with tribe; approval by tribal officials; submittal to Congress

Inasmuch as the reservation of the tribe has been terminated, the Secretary shall negotiate with the tribe, or with representatives of the tribe chosen by the tribe, concerning the establishment of a reservation for the tribe and

shall, in accordance with subsections (c) and (d) of this section and within two years after November 18, 1977, develop a plan for the establishment of a reservation for the tribe. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 711d of this title, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

(c) Notification and consultation

To assure that legitimate State and local interests are not prejudiced by the creation of a reservation for the tribe, the Secretary, in developing a plan under subsection (b) of this section for the establishment of a reservation, shall notify and consult with all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the reservation;

(2) the effect the establishment of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Oregon with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(d) Provisions of plan

Any plan developed under this section for the establishment of a reservation for the tribe shall provide that—

(1) any real property transferred by the tribe or members of the tribe to the Secretary shall be taken in the name of the United States in trust for the benefit of the tribe and shall be the reservation for the tribe;

(2) the establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members unless such real property is located within Lincoln County, State of Oregon;

(4) any real property taken in trust by the Secretary for the benefit of the tribe or its members shall be subject to all rights existing at the time such property is taken in trust, including liens, outstanding Federal, State, and local taxes, mortgages, outstanding indebtedness of any kind, easements, and all other obligations, and shall be subject to foreclosure and sale in accordance with the laws of the State of Oregon;

(5) the transfer of any real property to the Secretary in trust for the benefit of the tribe or its members shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(6) the State of Oregon shall have civil and criminal jurisdiction with respect to the reservation and persons on the reservation in accordance with section 1360 of title 28 and section 1162 of title 18.

(e) Statement

The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (c) of this section was carried out and shall include any written comments with respect to the establishment of a reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

(Pub. L. 95-195, § 7, Nov. 18, 1977, 91 Stat. 1418.)

§ 711f. Rules and regulations

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this subchapter.

(Pub. L. 95-195, § 8, Nov. 18, 1977, 91 Stat. 1419.)

CHAPTER 15—CONSTITUTIONAL RIGHTS OF INDIANS

SUBCHAPTER I—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 5307.

CHAPTER 17—FINANCING ECONOMIC DEVELOPMENT OF INDIANS AND INDIAN ORGANIZATIONS

SUBCHAPTER IV—INDIAN BUSINESS GRANTS

§ 1523. Authorization of appropriations

There are authorized to be appropriated not to exceed the sum of $14,000,000 for each of the fiscal years 1978 and 1979 for the purposes of this subchapter.

(As amended Pub. L. 95-68, July 20, 1977, 91 Stat. 272.)

AMENDMENTS

1977—Pub. L. 95-68 substituted "$14,000,000 for each of the fiscal years 1978 and 1979" for "$10,000,000 for each of the fiscal years 1975, 1976, and 1977".

CHAPTER 18—INDIAN HEALTH CARE

§ 1603. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 294y-1, 1395qq, 1396d, 1396j.

SUBCHAPTER I—INDIAN HEALTH PROFESSIONAL PERSONNEL

§ 1614. Indian health service extern programs

(a) Employment of scholarship grantees during nonacademic periods

Any individual who receives a scholarship grant pursuant to section 294y-1 of title 42 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

[*See main edition for text of* (*b*) *to* (*d*)].

(As amended Pub. L. 95-83, title III, § 307(n)(2), Aug. 1, 1977, 91 Stat. 393.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 substituted reference to "section 294y-1 of title 42" for prior reference to "section 104" meaning section 104 of Pub. L. 94-437, which added section 234(i)(2) of Title 42, The Public Health and Welfare.

SUBCHAPTER IV—HEALTH SERVICES FOR URBAN INDIANS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1603 of this title; title 42 section 294y-1.

TITLE 26—INTERNAL REVENUE CODE

INTERNAL REVENUE TITLE

Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

Chapter Referred to in Other Sections

This chapter is referred to in sections 1501, 3402, 6013, 6017A, 6038, 6096, 6103, 6161, 6166, 6166A, 6167, 6201, 6211, 6361, 6362, 6428, 6654, 6655, 6683, 7216, 7654, 7701 of this title; title 7 sections 1926, 1929a; title 22 section 277d-23; title 25 section 1486; title 42 sections 291j-7, 300e-7, 300q-2, 411, 1382, 1440, 5308; title 45 section 602; title 46 section 1177; title 48 section 1574b.

Subchapter A—Determination of Tax Liability

PART I—TAX ON INDIVIDUALS

§ 1. Tax imposed

(a) Married individuals filing joint returns and surviving spouses

There is hereby imposed on the taxable income of—

(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $3,200	No tax.
Over $3,200 but not over $4,200.	14% of the excess over $3,200.
Over $4,200 but not over $5,200.	$140, plus 15% of excess over $4,200.
Over $5,200 but not over $6,200.	$290, plus 16% of excess over $5,200.
Over $6,200 but not over $7,200.	$450, plus 17% of excess over $6,200.
Over $7,200 but not over $11,200.	$620, plus 19% of excess over $7,200
Over $11,200 but not over $15,200.	$1,380, plus 22% of excess over $11,200.
Over $15,200 but not over $19,200.	$2,260, plus 25% of excess over $15,200.
Over $19,200 but not over $23,200.	$3,260, plus 28% of excess over $19,200.
Over $23,200 but not over $27,200.	$4,380, plus 32% of excess over $23,200.
Over $27,200 but not over $31,200.	$5,660, plus 36% of excess over $27,200.
Over $31,200 but not over $35,200.	$7,100, plus 39% of excess over $31,200.
Over $35,200 but not over $39,200.	$8,660, plus 42% of excess over $35,200.
Over $39,200 but not over $43,200.	$10,340, plus 45% of excess over $39,200.
Over $43,200 but not over $47,200.	$12,140, plus 48% of excess over $43,200.
Over $47,200 but not over $55,200.	$14,060, plus 50% of excess over $47,200.
Over $55,200 but not over $67,200.	$18,060, plus 53% of excess over $55,200.
Over $67,200 but not over $79,200.	$24,420, plus 55% of excess over $67,200.
Over $79,200 but not over $91,200.	$31,020, plus 58% of excess over $79,200.
Over $91,200 but not over $103,200.	$37,980, plus 60% of excess over $91,200.
Over $103,200 but not over $123,200.	$45,180, plus 62% of excess over $103,200.
Over $123,200 but not over $143,200.	$57,580, plus 64% of excess over $123,200.
Over $143,200 but not over $163,200.	$70,380, plus 66% of excess over $143,200.
Over $163,200 but not over $183,200.	$83,580, plus 68% of excess over $163,200.
Over $183,200 but not over $203,200.	$97,180, plus 69% of excess over $183,200.
Over $203,200	$110,980, plus 70% of excess over $203,200.

(b) Heads of households

There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $2,200	No tax.
Over $2,200 but not over $3,200.	14% of the excess over $2,200.
Over $3,200 but not over $4,200.	$140, plus 16% of excess over $3,200.
Over $4,200 but not over $6,200.	$300, plus 18% of excess over $4,200.
Over $6,200 but not over $8,200.	$660, plus 19% of excess over $6,200.
Over $8,200 but not over $10,200.	$1,040, plus 22% of excess over $8,200.
Over $10,200 but not over $12,200.	$1,480, plus 23% of excess over $10,200.
Over $12,200 but not over $14,200.	$1,940, plus 25% of excess over $12,200.
Over $14,200 but not over $16,200.	$2,440, plus 27% of excess over $14,200.

If the taxable income is:	*The tax is:*
Over $16,200 but not over $18,200.	$2,980, plus 28% of excess over $16,200.
Over $18,200 but not over $20,200.	$3,540, plus 31% of excess over $18,200.
Over $20,200 but not over $22,200.	$4,160, plus 32% of excess over $20,200.
Over $22,200 but not over $24,200.	$4,800, plus 35% of excess over $22,200.
Over $24,200 but not over $26,200.	$5,500, plus 36% of excess over $24,200.
Over $26,200 but not over $28,200.	$6,220, plus 38% of excess over $26,200.
Over $28,200 but not over $30,200.	$6,980, plus 41% of excess over $28,200.
Over $30,200 but not over $34,200.	$7,800, plus 42% of excess over $30,200.
Over $34,200 but not over $38,200.	$9,480, plus 45% of excess over $34,200.
Over $38,200 but not over $40,200.	$11,280, plus 48% of excess over $38,200.
Over $40,200 but not over $42,200.	$12,240, plus 51% of excess over $40,200.
Over $42,200 but not over $46,200.	$13,260, plus 52% of excess over $42,200.
Over $46,200 but not over $52,200.	$15,340, plus 55% of excess over $46,200.
Over $52,200 but not over $54,200.	$18,640, plus 56% of excess over $52,200.
Over $54,200 but not over $66,200.	$19,760, plus 58% of excess over $54,200.
Over $66,200 but not over $72,200.	$26,720, plus 59% of excess over $66,200.
Over $72,200 but not over $78,200.	$30,260, plus 61% of excess over $72,200.
Over $78,200 but not over $82,200.	$33,920, plus 62% of excess over $78,200.
Over $82,200 but not over $90,200.	$36,400, plus 63% of excess over $82,200.
Over $90,200 but not over $102,200.	$41,440, plus 64% of excess over $90,200.
Over $102,200 but not over $122,200.	$49,120, plus 66% of excess over $102,200.
Over $122,200 but not over $142,200.	$62,320, plus 67% of excess over $122,200.
Over $142,200 but not over $162,200.	$75,720, plus 68% of excess over $142,200.
Over $162,200 but not over $182,200.	$89,320, plus 69% of excess over $162,200.
Over $182,200	$103,120, plus 70% of excess over $182,200.

(c) Unmarried individuals (other than surviving spouses and heads of households)

There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $2,200.....	No tax.
Over $2,200 but not over $2,700.	14% of the excess over $2,200.
Over $2,700 but not over $3,200.	$70, plus 15% of excess over $2,700.
Over $3,200 but not over $3,700.	$145, plus 16% of excess over $3,200.
Over $3,700 but not over $4,200.	$225, plus 17% of excess over $3,700.
Over $4,200 but not over $6,200.	$310, plus 19% of excess over $4,200.
Over $6,200 but not over $8,200.	$690, plus 21% of excess over $6,200.
Over $8,200 but not over $10,200.	$1,110, plus 24% of excess over $8,200.
Over $10,200 but not over $12,200.	$1,590, plus 25% of excess over $10,200.
Over $12,200 but not over $14,200.	$2,090, plus 27% of excess over $12,200.
Over $14,200 but not over $16,200.	$2,630, plus 29% of excess over $14,200.
Over $16,200 but not over $18,200.	$3,210, plus 31% of excess over $16,200.
Over $18,200 but not over $20,200.	$3,830, plus 34% of excess over $18,200.
Over $20,200 but not over $22,200.	$4,510, plus 36% of excess over $20,200.
Over $22,200 but not over $24,200.	$5,230, plus 38% of excess over $22,200.
Over $24,200 but not over $28,200.	$5,990, plus 40% of excess over $24,200.
Over $28,200 but not over $34,200.	$7,590, plus 45% of excess over $28,200.
Over $34,200 but not over $40,200.	$10,290, plus 50% of excess over $34,200.
Over $40,200 but not over $46,200.	$13,290, plus 55% of excess over $40,200.
Over $46,200 but not over $52,200.	$16,590, plus 60% of excess over $46,200.
Over $52,200 but not over $62,200.	$20,190, plus 62% of excess over $52,200.
Over $62,200 but not over $72,200.	$26,390, plus 64% of excess over $62,200.
Over $72,200 but not over $82,200.	$32,790, plus 66% of excess over $72,200.
Over $82,200 but not over $92,200.	$39,390, plus 68% of excess over $82,200.
Over $92,200 but not over $102,200.	$46,190, plus 69% of excess over $92,200.
Over $102,200	$53,090, plus 70% of excess over $102,200.

(d) Married individuals filing separate returns

There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $1,600.....	No tax.
Over $1,600 but not over $2,100.	14% of the excess over $1,600.
Over $2,100 but not over $2,600.	$70, plus 15% of excess over $2,100.
Over $2,600 but not over $3,100.	$145, plus 16% of excess over $2,600.
Over $3,100 but not over $3,600.	$225, plus 17% of excess over $3,100.
Over $3,600 but not over $5,600.	$310, plus 19% of excess over $3,600.

If the taxable income is:	*The tax is:*
Over $5,600 but not over $7,600.	$690, plus 22% of excess over $5,600.
Over $7,600 but not over $9,600.	$1,130, plus 25% of excess over $7,600.
Over $9,600 but not over $11,600.	$1,630, plus 28% of excess over $9,600.
Over $11,600 but not over $13,600.	$2,190, plus 32% of excess over $11,600.
Over $13,600 but not over $15,600.	$2,830, plus 36% of excess over $13,600.
Over $15,600 but not over $17,600.	$3,550, plus 39% of excess over $15,600.
Over $17,600 but not over $19,600.	$4,330, plus 42% of excess over $17,600.
Over $19,600 but not over $21,600.	$5,170, plus 45% of excess over $19,600.
Over $21,600 but not over $23,600.	$6,070, plus 48% of excess over $21,600.
Over $23,600 but not over $27,600.	$7,030, plus 50% of excess over $23,600.
Over $27,600 but not over $33,600.	$9,030, plus 53% of excess over $27,600.
Over $33,600 but not over $39,600.	$12,210, plus 55% of excess over $33,600.
Over $39,600 but not over $45,600.	$15,510, plus 58% of excess over $39,600.
Over $45,600 but not over $51,600.	$18,990, plus 60% of excess over $45,600.
Over $51,600 but not over $61,600.	$22,590, plus 62% of excess over $51,600.
Over $61,600 but not over $71,600.	$28,790, plus 64% of excess over $61,600.
Over $71,600 but not over $81,600.	$35,190, plus 66% of excess over $71,600.
Over $81,600 but not over $91,600.	$41,790, plus 68% of excess over $81,600.
Over $91,600 but not over $101,600.	$48,590, plus 69% of excess over $91,600.
Over $101,600	$55,490, plus 70% of excess over $101,600.

(e) Estates and trusts

There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $500.....	14% of the taxable income.
Over $500 but not over $1,000.	$70, plus 15% of excess over $500.
Over $1,000 but not over $1,500.	$145, plus 16% of excess over $1,000.
Over $1,500 but not over $2,000.	$225, plus 17% of excess over $1,500.
Over $2,000 but not over $4,000.	$310, plus 19% of excess over $2,000.
Over $4,000 but not over $6,000.	$690, plus 22% of excess over $4,000.
Over $6,000 but not over $8,000.	$1,130, plus 25% of excess over $6,000.
Over $8,000 but not over $10,000.	$1,630, plus 28% of excess over $8,000.
Over $10,000 but not over $12,000.	$2,190, plus 32% of excess over $10,000.
Over $12,000 but not over $14,000.	$2,830, plus 36% of excess over $12,000.
Over $14,000 but not over $16,000.	$3,550, plus 39% of excess over $14,000.
Over $16,000 but not over $18,000.	$4,330, plus 42% of excess over $16,000.
Over $18,000 but not over $20,000.	$5,170, plus 45% of excess over $18,000.
Over $20,000 but not over $22,000.	$6,070, plus 48% of excess over $20,000.
Over $22,000 but not over $26,000.	$7,030, plus 50% of excess over $22,000.
Over $26,000 but not over $32,000.	$9,030, plus 53% of excess over $26,000.
Over $32,000 but not over $38,000.	$12,210, plus 55% of excess over $32,000.
Over $38,000 but not over $44,000.	$15,510, plus 58% of excess over $38,000.
Over $44,000 but not over $50,000.	$18,990, plus 60% of excess over $44,000.
Over $50,000 but not over $60,000.	$22,590, plus 62% of excess over $50,000.
Over $60,000 but not over $70,000.	$28,790, plus 64% of excess over $60,000.
Over $70,000 but not over $80,000.	$35,190, plus 66% of excess over $70,000.
Over $80,000 but not over $90,000.	$41,790, plus 68% of excess over $80,000.
Over $90,000 but not over $100,000.	$48,590, plus 69% of excess over $90,000.
Over $100,000	$55,490, plus 70% of excess over $100,000.

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(a), 91 Stat. 127.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30 generally made a downward revision of the tax table for married individuals filing joint returns and surviving spouses resulting in a table under which, among other changes, a bottom bracket imposing no tax on taxable income of $3,200 or less was substituted for a bottom bracket under which a tax of 14% had been imposed on a taxable income of $1,000 or less.

Subsec. (b). Pub. L. 95-30 generally made a downward revision of the tax table for heads of households resulting in a table under which, among other changes, a bottom bracket imposing no tax on taxable income of $2,200 or less was substituted for a bottom bracket under which a tax of 14% had been imposed on a taxable income of $1,000 or less.

Subsec. (c). Pub. L. 95-30 generally made a downward revision of the tax table for unmarried individuals other than surviving spouses and heads of households resulting in a table under which, among other changes, a bottom bracket imposing no tax on taxable income of $2,200 or less was substituted for a bottom bracket under which a tax of 14% had been imposed on a taxable income of $500 or less.

Subsec. (d). Pub. L. 95-30 generally made a downward revision of the tax table for married individuals filing separate returns resulting in a table under which, among other changes, a bottom bracket imposing no tax on taxable income of $1,600 or less was substituted for a bottom bracket under which a tax of 14% had been imposed on a taxable income of $500 or less. Provisions making the table applicable to estates and trusts were stricken. See subsec. (e).

Subsec. (e). Pub. L. 95-30 added subsec. (e) consisting of the table formerly contained in subsec. (d) but without any downward revision and limited so as to apply only to estates and trusts.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 106(a) of Pub. L. 95-30 provided that: "The amendments made by sections 101, 102, and 104

[amending sections 1, 3, 21, 42, 57, 63, 143, 161, 172, 211, 402, 441, 443, 511, 584, 613A, 641, 642, 667, 703, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 6012, 6014, 6212, 6504, and 6654 of this title and repealing sections 36, 141, 142, 144, and 145 of this title] shall apply to taxable years beginning after December 31, 1976."

SHORT TITLE OF 1977 AMENDMENTS

Section 1(a) of Pub. L. 95-30 provided that: "This Act [enacting sections 44B, 51 to 53, and 280C of this title and sections 661, 662, and 6736 of Title 42, The Public Health and Welfare, amending sections 1, 3, 11, 21, 42, 56, 57, 63, 143, 161, 170, 172, 188, 211, 280A, 381, 383, 402, 441, 443, 511, 584, 613A, 641, 642, 667, 703, 821, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 3402, 6012, 6014, 6096, 6212, 6411, 6501, 6504, 6511, 6601, 6611, and 6654 of this title, section 5520 of Title 5, Government Organization and Employees, sections 1673 and 1675 of Title 15, Commerce and Trade, and sections 652, 654, 658, 659, 6722, 6723, 6727, 6735, 6736 of Title 42, repealing sections 36, 141, 142, 144, and 145 of this title and section 6736 of Title 42, enacting provisions set out as notes under sections 1, 37, 44B, 57, 105, 170, 188, 280A, 383, 3402, 6601, 6654, and 7651 of this title, section 5520 of Title 5, section 1673 of Title 15, and sections 402, 602, 652, 654, 658, and 6721 of Title 42, and amending provisions set out as notes under sections 42, 43, 105, 162, 447 and 911 of this title] may be cited as the 'Tax Reduction and Simplification Act of 1977'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 3, 42, 402, 511, 641, 871, 876, 877, 891, 911, 962, 1201, 1348, 6014, 6361 of this title.

§ 2. Definitions and special rules

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 63, 1304, 3402, 6012, 6013, 6015 of this title.

§ 3. Tax tables for individuals

(a) Imposition of tax table tax

(1) In general

In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the tax table income of every individual whose tax table income for such year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 1.

(2) Ceiling amount defined

For purposes of paragraph (1), the term "ceiling amount" means, with respect to any taxpayer, the amount (not less than $20,000) determined by the Secretary for the tax rate category in which such taxpayer falls.

(3) Certain taxpayers with large number of exemptions

The Secretary may exclude from the application of this section taxpayers in any tax rate category having more than the number of exemptions for that category determined by the Secretary.

(4) Tax table income defined

For purposes of this section, the term "tax table income" means adjusted gross income—

(A) reduced by the excess itemized deductions, and

(B) increased (in the case of an individual to whom section 63(e) applies) by the unused zero bracket amount.

(b) Section inapplicable to certain individuals

This section shall not apply to—

(1) an individual to whom—

(A) section 911 (relating to earned income from sources without the United States),

(B) section 1201 (relating to alternative capital gains tax),

(C) section 1301 (relating to income averaging), or

(D) section 1348 (relating to maximum rate on personal service income),

applies for the taxable year,

(2) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in annual accounting period, and

(3) an estate or trust.

(c) Tax treated as imposed by section 1

For purposes of this title, the tax imposed by this section shall be treated as tax imposed by section 1.

(d) Taxable income

Whenever it is necessary to determine the taxable income of an individual to whom this section applies, the taxable income shall be determined under section 63.

(e) Cross reference

For computation of tax by Secretary, see section 6014.

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(b), 91 Stat. 131.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30 designated existing provisions as par. (1), substituted "tax table income" for "taxable income" and "does not exceed the ceiling amount" for "does not exceed $20,000" in par. (1) as so designated, and added pars. (2), (3), and (4).

Subsec. (b). Pub. L. 95-30 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-30 redesignated former subsec. (b) as (c).

Subsecs. (d), (e). Pub. L. 95-30 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 891 of this title.

PART II—TAX ON CORPORATIONS

§ 11. Tax imposed

[*See main edition for text of (a)*]

(b) Normal tax

The normal tax is equal to—

(1) in the case of a taxable year ending after December 31, 1978, 22 percent of the taxable income, and

(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1979, the sum of—

(A) 20 percent of so much of the taxable income as does not exceed $25,000, plus

(B) 22 percent of so much of the taxable income as exceeds $25,000.

[*See main edition for text of* (c)]

(d) Surtax exemption

For purposes of this subtitle, the surtax exemption for any taxable year is—

(1) $25,000 in the case of a taxable year ending after December 31, 1978, or

(2) $50,000 in the case of a taxable year ending after December 31, 1974, and before January 1, 1979,

except that, with respect to a corporation to which section 1561 (relating to certain multiple tax benefits in the case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

[*See main edition for text of* (e) *and* (f)]

(As amended May 23, 1977, Pub. L. 95-30, title II, § 201(1), (2), 91 Stat. 141.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-30, § 201(1), substituted "December 31, 1978" for "December 31, 1977".

Subsec. (b)(2). Pub. L. 95-30, § 201(1), substituted "January 1, 1979" for "January 1, 1978" in the provisions preceding subpar. (A).

Subsec. (d)(1). Pub. L. 95-30, § 201(2), substituted "December 31, 1978" for "December 31, 1977".

Subsec. (d)(2). Pub. L. 95-30, § 201(2), substituted "January 1, 1979" for "January 1, 1978".

PART III—CHANGES IN RATES DURING A TAXABLE YEAR

§ 21. Effect of changes

[*See main edition for text of* (a) *to* (c)]

(d) Change in surtax exemption

In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303(b) of the Tax Reduction Act of 1975 in the surtax exemption and any change under section 11(d) in the surtax exemption shall be treated as a change in a rate of tax.

(e) Changes made by Tax Reduction and Simplification Act of 1977

In applying subsection (a) to a taxable year of an individual which is not a calendar year, the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977 shall not be treated as changes in a rate of tax.

[(f) Redesignated (d).]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(2), 91 Stat. 133.)

REFERENCES IN TEXT

The Tax Reduction Act of 1975, referred to in subsec. (d), is Pub. L. 94-12, § 303(b), Mar. 29, 1975, 89 Stat. 26. Section 303(b) of such Act amended section 11(d) of this title. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 1 of this title and Tables.

The Tax Reduction and Simplification Act of 1977, referred to in subsec. (d), is Pub. L. 95-30, May 23, 1977, 91 Stat. 126. Sections 101 and 102 of such Act amended sections 1, 3, 21, 42, 57, 63, 143, 161, 172, 211, 402, 441, 443, 511, 584, 613A, 641, 642, 667, 703, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 6014, 6212, 6504, and 6654 of this title and repealed sections 36, 141, 142, 144, and 145 of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1 of this title and Tables.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-30, § 101(d)(2)(A), (B), redesignated former subsec. (f) as (d). Former subsec. (d), which directed that, in applying subsec. (a) to a taxable year of an individual which was not a calendar year, each change made by the Tax Reform Act of 1969 in part I or in the application of part IV or V of subchapter B for purposes of the determination of taxable income should be treated as a change in a rate of tax, was stricken.

Subsec. (e). Pub. L. 95-30, § 101(d)(2)(A), (C), added subsec. (e). Former subsec. (e), which directed that, in applying subsec. (a) to a taxable year of an individual which was not a calendar year, each change made by the Revenue Act of 1971 in section 141 (relating to the standard deduction) and section 151 (relating to personal exemptions) should be treated as a change in a rate of tax, was stricken.

Subsec. (f). Pub. L. 95-30, § 101(d)(2)(B), redesignated subsec. (f) as (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART IV—CREDITS AGAINST TAX

Subpart

D. Rules for computing credit for employment of certain new employees.

SUBPART A—CREDITS ALLOWABLE

Sec.

[36. Repealed.]

44B. Credit for employment of certain new employees.

AMENDMENTS

1977—Pub. L. 95-30, title I, § 101(e)(1), title II, § 202(d)(1), May 23, 1977, 91 Stat. 134, 147, added subpart D and section 44B and struck out item 36 "Credit not allowed to individuals taking standard deduction".

§ 32. Tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 874, 882, 6211 of this title.

§ 33. Taxes on foreign countries and possessions of the United States; possession tax credit

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41, 42, 44, 44A, 46, 50A, 53, 56, 691, 1351, 6096, 6428 of this title.

[§ 36. Repealed. Pub. L. 95-30, title I, § 101(d)(3), May 23, 1977, 91 Stat. 133]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 15; Oct. 4, 1976, Pub. L. 94-455, title V, § 501(b)(2), title X, § 1011(c), title XIX, § 1901(b)(1)(A), 90 Stat. 1558, 1611, 1790, directed that the credits provided by section 32 not be allowed if an individual elects under section 144 to take the standard deduction.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 37. Credit for the elderly

DETERMINATION OF RETIREMENT INCOME CREDIT UNDER PROVISIONS AS THEY EXISTED PRIOR TO AMENDMENT BY PUB. L. 94-455 ELECTION

Pub. L. 95-30, title IV, § 403, May 23, 1977, 91 Stat. 155, provided that: "A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) to determine the amount of his credit under section 37 of the Internal Revenue Code of 1954 for his first taxable year beginning in 1976 under the provisions of such section as they existed before the amendment made by section 503 of the Tax Reform Act of 1976 [Pub. L. 94-455]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41, 42, 44, 44A, 46, 50A, 53, 56, 904, 1375, 6014, 6096, 6428 of this title.

§ 38. Investment in certain depreciable property

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41, 42, 44, 44A, 46, 47, 48, 49, 50A, 53, 56, 167, 185, 381, 861, 1351, 6096, 6428, 6601 of this title.

§ 40. Expenses of work incentive programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 44, 44A, 50A, 53, 56, 381, 6096, 6428, 6601 of this title.

§ 41. Contributions to candidates for public office

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 44, 44A, 50A, 53, 56, 218, 527, 642, 6096, 6428 of this title.

§ 42. General tax credit

(a) Allowance of credit

In the case of an individual, there shall be allowed as a credit against the tax imposed by section 1, or against the tax imposed in lieu of the tax imposed by section 1, for the taxable year an amount equal to the greater of—

(1) 2 percent of so much of the taxpayer's taxable income for the taxable year (reduced by the zero bracket amount) as does not exceed $9,000; or

(2) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under section 151.

(b) Application with other credits

The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 1, or the amount of the tax imposed in lieu of the tax imposed by section 1, for the taxable year. In determining the credits allowed under—

(1) section 33 (relating to foreign tax credit),

(2) section 37 (relating to credit for the elderly credit),

(3) section 38 (relating to investment in certain depreciable property),

(4) section 40 (relating to expenses of work incentive programs), and

(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section.

(c) Special rule for married individuals filing separate returns

(1) In general

In the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be the amount determined under paragraph (2) of subsection (a).

(2) Marital status

For purposes of this subsection, the determination of marital status shall be made under section 143.

[*See main edition for text of* (*d*)]

(e) Income tax tables to reflect credit

The tables prescribed by the Secretary under section 3 shall reflect the credit allowed by this section.

(As amended Pub. L. 95-30, title I, § 101(c), May 23, 1977, 91 Stat. 132.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30, § 101(c)(1), substituted "tax imposed by section 1, or against the tax imposed in lieu of the tax imposed by section 1," for "tax imposed by this chapter" in the provisions preceding par. (1), added "(reduced by the zero bracket amount)" in par. (1), and substituted "under section 151" for "under subsection (b) or (e) of section 151" in par. (2).

Subsec. (b). Pub. L. 95-30, § 101(c)(4), substituted "by section 1, or the amount of the tax imposed in lieu of the tax imposed by section 1," for "by this chapter" in the provisions preceding par. (1).

Subsec. (c). Pub. L. 95-30, § 101(c)(3), struck out, in par. (1), "Notwithstanding subsection (a)," preceding "In the case of a married individual", and "equal to either (A) the amount determined under paragraph (1) of subsection (a); or (B) if this subparagraph applies to the individual for the taxable year," preceding "the amount determined under paragraph (2) of subsection (a)" and struck out provision that, for purposes of the deleted provisions, paragraph (1) of subsection (a) would be applied by substituting "$4,500" for "$9,000", redesignated former par. (3) as (2), and deleted former par. (2) under which special provisions had been made for the election by the taxpayer to have former subpar. (B) of par. (1) apply.

Subsec. (e). Pub. L. 95-30, § 101(c)(2), added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a)

of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 401(e) of Pub. L. 94-455, as amended by Pub. L. 95-30, title I, § 103(c), May 23, 1977, 91 Stat. 139, provided that: "The amendments made by subsection (a) [amending subsecs. (a) and (c)(1) of this section and section 6096(b) of this title] shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years ending after December 31, 1978. The amendments made by subsection (c) [amending section 43(a) to (c)(1)(A) of this title] shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years beginning after December 31, 1978. The amendments made by subsection (b) [to sections 141(b), (c) and 6012(a) of this title] shall apply to taxable years ending after December 31, 1975. The amendments made by subsection (d) [to section 3402(a), (c), (m) of this title] shall apply to wages paid after September 14, 1976."

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENTS

Section 3(b) of Pub. L. 94-164, as amended by Pub. L. 94-455, title IV, § 401(a)(1), Oct. 4, 1976, 90 Stat. 1555; Pub. L. 95-30, title I, § 103(a), May 23, 1977, 91 Stat. 139, provided that: "The amendments made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1975. Such amendments shall cease to apply to taxable years ending after December 31, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44, 44A, 53, 56, 6096, 6153 of this title.

§ 43. Earned income

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, but ceasing to apply to taxable years beginning after Dec. 31, 1978, see section 401(e) of Pub. L. 94-455, set out as an Effective and Termination Dates of 1976 Amendment note under section 42 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

* * * * *

Section 209(b) of Pub. L. 94-12, as amended by Pub. L. 94-164, § 2(f), Dec. 23, 1975, 89 Stat. 972; Pub. L. 94-455, title IV, § 401(c)(1)(A), Oct. 4, 1976, 90 Stat. 1557; Pub. L. 95-30, title I, § 103(b), May 23, 1977, 91 Stat. 139, provided that: "The amendments made by section 204 [enacting this section and amending sections 6201 and 6401 of this title] shall apply to taxable years beginning after December 31, 1974, and before January 1, 1979."

§ 44A. Expenses for household and dependent care services necessary for gainful employment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 53, 56, 6096 of this title.

§ 44B. Credit for employment of certain new employees

(a) General rule

There shall be allowed as a credit against the tax imposed by this chapter the amount determined under subpart D of this part.

(b) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart D.

(Added Pub. L. 95-30, title II, § 202(a), May 23, 1977, 91 Stat. 141.)

EFFECTIVE DATE

Section 202(e) of Pub. L. 95-30 provided that: "The amendments made by this section [enacting sections 44B, 51, 52, 53, and 280C of this title and amending sections 56, 381, 383, 6096, 6411, 6501, 6511, 6601, and 6611 of this title] shall apply to taxable years beginning after December 31, 1976, and to credit carrybacks from such years."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 52, 53, 56, 280C, 381, 6096, 6601 of this title.

§ 46. Amount of credit

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47, 48, 50, 50B, 52, 383, 6411 of this title.

§ 48. Definitions; special rules

REFERENCES IN TEXT

Section 302(b) of the Clean Air Act, referred to in subsec. (h)(12)(C), formerly classified to section 1857h(b) of Title 42, The Public Health and Welfare, was reclassified to section 7602(b) of Title 42 on enactment of Pub. L. 95-95.

The Clean Air Act, referred to in subsec. (h)(12)(C), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

SUBPART C—RULES FOR COMPUTING CREDIT FOR EXPENSES OF WORK INCENTIVE PROGRAMS

§ 50B. Definitions; special rules

(a) Work incentive program expenses

[*See main edition for text of (1)*]

(2) Definitions

For purposes of this section, the term "Federal welfare recipient employment incentive expenses" means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—

(A) before January 1, 1980, or

(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1978.

[*See main edition for text of (3); (b) to (h)*]

(As amended Pub. L. 95-171, § 1(e), Nov. 12, 1977, 91 Stat. 1353.)

AMENDMENTS

1977—Subsec. (a)(2)(B). Pub. L. 95-171 substituted "October 1, 1978" for "October 1, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1(f) of Pub. L. 95-171 provided that: "The amendments made by this section [amending subsec. (a)(2)(B) of this section and provisions set out as notes under sections 1397 and 1397a of Title 42, The Public Health and Welfare] shall be effective on October 1, 1977."

SUBPART D—RULES FOR COMPUTING CREDIT FOR EMPLOYMENT OF CERTAIN NEW EMPLOYEES

Sec.
51. Amount of credit.
52. Special rules.
53. Limitation based on amount of tax.

AMENDMENTS

1977—Pub. L. 95-30, title II, § 202(b), May 23, 1977, 91 Stat. 141, added subpart D heading and analysis of sections 51, 52, and 53.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 44B of this title.

§ 51. Amount of credit

(a) Determination of amount

The amount of the credit allowable by section 44B shall be—

(1) for a taxable year beginning in 1977, an amount equal to 50 percent of the excess of the aggregate unemployment insurance wages paid during 1977 over 102 percent of the aggregate unemployment insurance wages paid during 1976, and

(2) for a taxable year beginning in 1978, an amount equal to 50 percent of the excess of the aggregate unemployment insurance wages paid during 1978 over 102 percent of the aggregate unemployment insurance wages paid during 1977.

(b) Minimum preceding year wages

For purposes of determining the amount of the credit under subsection (a) with respect to 1977 or 1978, 102 percent of the amount of the aggregate unemployment insurance wages paid during the preceding calendar year shall be deemed to be not less than 50 percent of the amount of such wages paid during 1977 or 1978, as the case may be.

(c) Total wages must increase

The amount of the credit allowable by section 44B for any taxable year shall not exceed the amount which would be determined for such year under subsection (a) (without regard to subsection (b)) if—

(1) the aggregate amounts taken into account as unemployment insurance wages were determined without any dollar limitation, and

(2) "105 percent" were substituted for "102 percent" in the appropriate paragraph of subsection (a).

(d) $100,000 per year limitation on credit

Except as provided in subsection (e), the amount of the credit determined under this subpart for any employer (and the amount of the credit allowable by section 44B to any taxpayer) with respect to any calendar year shall not exceed $100,000.

(e) Additional 10 percent credit for vocational rehabilitation referrals

(1) In general

The amount of the credit allowable by section 44B for any taxable year beginning in 1977 or 1978 (determined without regard to this subsection) shall be increased by an amount equal to 10 percent of the unemployment insurance wages paid by the employer to vocational rehabilitation referrals during the calendar year in which such taxable year begins.

(2) Only first year taken into account

For purposes of this subsection, unemployment insurance wages may be taken into account with respect to any individual—

(A) only to the extent attributable to services rendered during the 1-year period beginning with his first payment of wages by the employer after the beginning of such individual's rehabilitation plan, and

(B) only if such first payment occurs after December 31, 1976.

(3) Only first $4,200 of wages taken into account for any individual

For purposes of this subsection, the unemployment insurance wages paid during 1978 which are taken into account with respect to any individual shall not exceed $4,200 reduced by the amount of unemployment insurance wages paid by the employer to such individual during 1977.

(4) 20-percent limitation

The amount of the credit allowable by reason of this subsection for any taxable year shall not exceed one-fifth of the credit determined for such year under this section without regard to this subsection and subsection (d).

(f) Definitions

For purposes of this subpart—

(1) Unemployment insurance wages

Except as otherwise provided in this subpart, the term "unemployment insurance wages" has the meaning given to the term "wages" by section 3306(b), except that, in the case of amounts paid during 1978, "$4,200" shall be substituted for "$6,000" each place it appears in section 3306(b).

(2) Agricultural labor

If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any calendar year constitute agricultural labor (within the meaning of section 3306(k)), the term "unemployment insurance wages" means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes "wages" within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $4,200.

(3) Railway labor

If more than one-half of the remuneration paid by an employer to an employee during the calendar year is remuneration for service described in section 3306(c)(9), the term "unemployment insurance wages" means, with respect to such employee for such year, an amount equal to ⅞ of so much of the remuneration paid to such employee during such year as is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)).

(4) Vocational rehabilitation referral

The term "vocational rehabilitation referral" means any individual who—

(A) has a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

(B) has been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

(g) Rules for application of section

For purposes of this subpart—

(1) Remuneration must be for trade or business employment with United States

Remuneration paid by an employer to an employee during any calendar year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in the United States in a trade or business of the employer.

(2) Special rule for certain determinations

Any determination as to whether paragraph (1) of this subsection, or paragraph (2) or (3) of subsection (f), applies with respect to any employee for any calendar year shall be made without regard to subsections (a) and (b) of section 52.

(Added Pub. L. 95-30, title II, § 202(b), May 23, 1977, 91 Stat. 141.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (f)(4)(B)(i), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 51, added Pub. L. 90-364, title I, § 102(a), June 28, 1968, 82 Stat. 252, and amended Pub. L. 91-53, § 5(a), Aug. 7, 1969, 83 Stat. 93; Pub. L. 91-172, title III, § 301(b)(5), title VII, § 701(a), Dec. 30, 1969, 83 Stat. 585, 657, which related to the imposition of a tax surcharge, was repealed by Pub. L. 94-455, title XIX, § 1901(a)(7), Oct. 4, 1976, 90 Stat. 1765.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 52, 53 of this title.

§ 52. Special rules

(a) Controlled group of corporations

For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by section 44B to each such member shall be its proportionate contribution to the increase in unemployment insurance wages giving rise to such credit. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(1) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(2) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(b) Employees of partnerships, proprietorships, etc., which are under common control

For purposes of this subpart, under regulations prescribed by the Secretary—

(1) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

(2) the credit (if any) allowable by section 44B with respect to each trade or business shall be its proportionate contribution to the increase in unemployment insurance wages giving rise to such credit.

The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (a).

(c) Adjustments for certain acquisitions, etc.

Under regulations prescribed by the Secretary—

(1) Acquisitions

If, after December 31, 1975, an employer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the "precedessor" [1]) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this subpart for any calendar year ending after such acquisition, the amount of unemployment insurance wages deemed paid by the employer during periods before such acquisition shall be increased by so much of such wages paid by the precedessor [1] with respect to the acquired trade or business as is attributable to the portion of such trade or business acquired by the employer.

[1] So in original.

(2) Dispositions

If, after December 31, 1975—

(A) an employer disposes of the major portion of any trade or business of the employer or the major portion of a separate unit of a trade or business of the employer in a transaction to which paragraph (1) applies, and

(B) the employer furnishes the acquiring person such information as is necessary for the application of paragraph (1),

then, for purposes of applying this subpart for any calendar year ending after such disposition, the amount of unemployment insurance wages deemed paid by the employer during periods before such disposition shall be decreased by so much of such wages as is attributable to such trade or business or separate unit.

(d) Tax-exempt organizations

No credit shall be allowed under section 44B to any organization (other than a cooperative described in section 521) which is exempt from income tax under this chapter.

(e) Change in status from self-employed to employee

If—

(1) during 1976 or 1977 an individual has net earnings from self-employment (as defined in section 1402(a)) which are attributable to a trade or business, and

(2) for any portion of the succeeding calendar year such individual is an employee of such trade or business,

then, for purposes of determining the credit allowable for a taxable year beginning in such succeeding calendar year, the employer's aggregate unemployement insurance wages for 1976 or 1977, as the case may be, shall be increased by an amount equal to so much of the net earnings referred to in paragraph (1) as does not exceed $4,200.

(f) Subchapter S corporations

In the case of an electing small business corporation (as defined in section 1371)—

(1) the amount of the credit determined under this subpart for any taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) any person to whom an amount is apportioned under paragraph (1) shall be allowed, subject to section 53, a credit under section 44B for such amount.

(g) Estates and trusts

In the case of an estate or trust—

(1) the amount of the credit determined under this subpart for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

(2) any beneficiary to whom any amount has been apportioned under paragraph (1) shall be allowed, subject to section 53, a credit under section 44B for such amount, and

(3) the $100,000 amount specified in section 51(d) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $100,000 as the portion of the credit allocable to the estate or trust under paragraph (1) bears to the entire amount of such credit.

(h) Limitations with respect to certain persons

Under regulations prescribed by the Secretary, in the case of—

(1) an organization to which section 593 (relating to reserves for losses on loans) applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) a cooperative organization described in section 1381(a),

rules similar to the rules provided in section 46(e) shall apply in determining the amount of the credit under this subpart.

(i) $50,000 limitation in the case of married individuals filing separate returns

In the case of a husband or wife who files a separate return, the limitation under section 51(d) shall be $50,000 in lieu of $100,000. This subsection shall not apply if the spouse of the taxpayer has no interest in a trade or business for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(j) Certain short taxable years

If the employer has more than one taxable year beginning in 1977 or 1978, the credit under this subpart shall be determined for the employer's last taxable year beginning in 1977 or 1978, as the case may be.

(Added Pub. L. 95-30, title II, § 202(b), May 23, 1977, 91 Stat. 143.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 280C of this title.

§ 53. Limitations based on amount of tax

(a) General rule

Notwithstanding section 51, the amount of the credit allowed by section 44B for the taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under—

(1) section 33 (relating to foreign tax credit),

(2) section 37 (relating to credit for the elderly),

(3) section 38 (relating to investment in certain depreciable property),

(4) section 40 (relating to expenses of work incentive programs),

(5) section 41 (relating to contributions to candidates for public office),

(6) section 42 (relating to general tax credit), and

(7) section 44A (relating to expenses for household and dependent care services necessary for gainful employment).

For purposes of this subsection, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 408(f) (relating to additional tax on income from certain retirement accounts), section 402(e) (relating to tax on lump-sum distributions), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

(b) Special rule for pass-thru of credit

In the case of a partner in a partnership, a beneficiary of an estate or trust, and a shareholder in a subchapter S corporation, the limitation provided by subsection (a) for the taxable year shall not exceed a limitation separately computed with respect to such person's interest in such entity by taking an amount which bears the same relationship to such limitation as—

(1) that portion of the person's taxable income which is allocable or apportionable to the person's interest in such entity, bears to

(2) the person's taxable income for such year reduced by his zero bracket amount (determined under section 63(d)), if any.

(c) Carryback and carryover of unused credit

(1) Allowance of credit

If the amount of the credit determined under section 51 for any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the "unused credit year"), such excess shall be—

(A) a new employee credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) a new employee credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 44B for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1977, section 44B shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under such section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

(2) Limitation

The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

(A) the credit allowable under section 44B for such taxable year, and

(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

(Added Pub. L. 95-30, title II, § 202(b), May 23, 1977, 91 Stat. 146.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 52, 280C, 383, 6411 of this title.

PART VI—MINIMUM TAX FOR TAX PREFERENCES

§ 56. Imposition of tax

[*See main edition for text of* (a) *and* (b)]

(c) Regular tax deduction defined

For purposes of this section, the term "regular tax deduction" means an amount equal to one-half of (or in the case of a corporation, an amount equal to) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), 408(f), 531, and 541), reduced by the sum of the credits allowable under—

[*See main edition for text of* (1) *to* (6)]

(7) section 44 (relating to purchase of new principal residence),

(8) section 44A (relating to expenses for household and dependent care services necessary for gainful employment), and

(9) section 44B (relating to credit for employment of certain new employees).

[*See main edition for text of* (d)]

(e) Tax carryover for timber

(1) In general

In the case of a corporation, if for any taxable year, including a taxable year beginning before January 1, 1976—

(A) the taxes imposed by this chapter (computed without regard to this part and without regard to the tax imposed by section 531) which, under regulations prescribed by the Secretary, are attributable to income from timber, reduced by the sum of the credits allowable under—

(i) section 33 (relating to foreign tax credit),

(ii) section 38 (relating to investment credit),

(iii) section 40 (relating to expenses of work incentive programs), and

(iv) section 44B (relating to credit for employment of certain new employees), exceed.

(B) the items of tax preference (as determined under section 57),

then the excess of the taxes described in subparagraph (A) over the items of tax preference shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which such excess may be carried.

[*See main edition for text of (2)*]

(As amended Pub. L. 95-30, title II, § 202(d)(2), May 23, 1977, 91 Stat. 148.)

AMENDMENTS

1977—Subsec. (c)(9). Pub. L. 95-30, § 202(d)(2)(A), added subsec. (c)(9).

Subsec. (e)(1)(A)(iv). Pub. L. 95-30, § 202(d)(2)(B), added subsec. (e)(1)(A)(iv).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5, 12, 46, 50A, 53, 58, 453, 511, 901, 936, 1373, 6015, 6362, 6654 of this title.

§ 57. Items of tax preference

(a) In general

For purposes of this part, the items of tax preference are—

(1) Adjusted itemized deductions

An amount equal to the adjusted itemized deductions for the taxable year (as determined under subsection (b)).

[*See main edition for text of (2) to (9)*]

(10) Amortization of child care facilities

With respect to each item of section 188 property for which an election is in effect under section 188, the amount by which the deduction allowable for the taxable year under such section exceeds the depreciation deduction which would otherwise be allowable under section 167.

(11) Intangible drilling costs

(A) In general

With respect to all oil and gas properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than the amount of the net income of the taxpayer from oil and gas properties for the taxable year.

(B) Excess intangible drilling costs

For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

(i) the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year, over

(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (d)) had been used with respect to such costs.

(C) Net income from oil and gas properities [1]

For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil and gas properties for the taxable year is the excess of—

(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil and gas properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

Paragraphs (1), (3), and (11) shall not apply to a corporation.

(b) Adjusted itemized deductions

(1) In general

For purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

(A) deductions allowable in arriving at adjusted gross income,

(B) the deduction for personal exemptions provided by section 151,

(C) the deduction for medical, dental, etc., expenses provided by section 213, and

(D) the deduction for casualty losses described in section 165(c)(3),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year.

[*See main edition for text of (2); (c) to (e)*]

(As amended Pub. L. 95-30, title I, § 101(d)(5), title III, § 308(a), title IV, § 402(a)(5), May 23, 1977, 91 Stat. 133, 153, 155.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-30, § 101(d)(5)(A), substituted "adjusted" for "excess" in heading and text.

Subsec. (a)(10). Pub. L. 95-30, § 402(a)(5), struck out "on-the-job training and" following "Amortization of" in the catchline.

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[1] So in original. Probably should read "properties".

Subsec. (a)(11). Pub. L. 95-30, § 308(a), designated existing provisions as cls. (i) and (ii) of subpar. (B) and added subpars. (A) and (C) and the introductory provisions preceding cl. (i) of subpar. (B).

Subsec. (b). Pub. L. 95-30, § 101(d)(5)(B), (C), substituted "adjusted" for "excess" in the subsection catchline and in the introductory provisions of par. (1) preceding subpar. (A), struck out subpar. (B) of par. (1) relating to the standard deduction, and redesignated subpars. (C), (D), and (E) of par. (1) as (B), (C), and (D), respectively.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 308(b) of Pub. L. 95-30 provided that: "The amendment made by subsection (a) [amending subsec. (a)(11) of this section] shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1978."

Amendment of subsecs. (a)(1) and (b) of this section by section 101(d)(5) of Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

Amendment of subsec. (a)(10) of this section by section 402(a)(5) of Pub. L. 95-30 applicable with respect to expenditures made after Dec. 31, 1976, see section 402(b) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 188 of this title.

Subchapter B—Computation of Taxable Income

Part
IV. Determination of marital status.

AMENDMENTS

1977—Pub. L. 95-30, title I, § 101(e)(3), May 23, 1977, 91 Stat. 135, substituted "Determination of marital status" for "Standard deduction for individuals" in item IV.

PART I—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

§ 61. Gross income defined

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 208A, 305, 351, 356, 408, 671, 707, 1101, 6103 of this title.

§ 63. Taxable income defined

(a) Corporations

For purposes of this subtitle, in the case of a corporation, the term "taxable income" means gross income minus the deductions allowed by this chapter.

(b) Individuals

For purposes of this subtitle, in the case of an individual, the term "taxable income" means adjusted gross income—

(1) reduced by the sum of—

(A) the excess itemized deductions, and

(B) the deductions for personal exemptions provided by section 151, and

(2) increased (in the case of an individual for whom an unused zero bracket amount computation is provided by subsection (e)) by the unused zero bracket amount (if any).

(c) Excess itemized deductions

For purposes of this subtitle, the term "excess itemized deductions" means the excess (if any) of—

(1) the itemized deductions, over

(2) the zero bracket amount.

(d) Zero bracket amount

For purposes of this subtitle, the term "zero bracket amount" means—

(1) $3,200 in the case of—

(A) a joint return under section 6013, or

(B) a surviving spouse (as defined in section 2(a)),

(2) $2,200 in the case of an individual who is not married and who is not a surviving spouse (as so defined).

(3) $1,600 in the case of a married individual filing a separate return, or

(4) zero in any other case.

(e) Unused zero bracket amount

(1) Individuals for whom computation must be made

A computation for the taxable year shall be made under this subsection for the following individuals:

(A) a married individual filing a separate return where either spouse itemized deductions,

(B) a nonresident alien individual,

(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States), and

(D) an individual with respect to whom a deduction under section 151(e) is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins.

(2) Computation

For purposes of this subtitle, an individual's unused zero bracket amount for the taxable year is an amount equal to the excess (if any) of—

(A) the zero bracket amount, over

(B) the itemized deductions.

In the case of an individual referred to in paragraph (1)(D), if such individual's earned income (as defined in section 911(b)) exceeds the itemized deductions, such earned income shall be substituted for the itemized deductions in subparagraph (B).

(f) Itemized deductions

For purposes of this subtitle, the term "itemized deductions" means the deductions allowable by this chapter other than—

(1) the deductions allowable in arriving at adjusted gross income, and

(2) the deductions for personal exemptions provided by section 151.

(g) Election to itemize

(1) In general

Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

(2) Who may elect

Except as provided in paragraph (3), an individual may make an election under this subsection for the taxable year only if such individual's itemized deductions exceed the zero bracket amount.

(3) Certain individuals treated as electing to itemize

An individual who has an unused zero bracket amount (as determined under subsection (e)(2)) shall be treated as having made an election under this subsection for the taxable year.

(4) Time and manner of election

Any election under this subsection shall be made on the taxpayer's return, and the Secretary shall prescribe the manner of signifying such election on the return.

(5) Change of treatment

Under regulations prescribed by the Secretary, a change of treatment with respect to the zero bracket amount and itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

(A) the spouse makes a change of treatment with respect to the zero bracket amount and itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

(B) the taxpayer and his spouse consent in writing to the assessment, within such period as may be agreed on with the Secretary, of any deficiency, to the extent attributable to such change of treatment, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse, for the taxable year corresponding to the taxable year of the taxpayer, has been compromised under section 7122.

(h) Marital status

For purposes of this section, marital status shall be determined under section 143.

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(a), 91 Stat. 135.)

AMENDMENTS

1977—Pub. L. 95-30 completely revised the definition of taxable income from one using the concept of a standard deduction and consisting of subsecs. (a) and (b) entitled, respectively, "General rule" and "Individuals electing standard deduction" to a definition using the concepts of zero bracket amounts and excess itemized deductions and consisting of subsecs. (a) to (h) entitled, respectively, "Corporations", "Individuals", "Excess itemized deductions", "Zero bracket amount", "Unused zero bracket amount", "Itemized deductions", "Election to itemize", and "Marital status".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 3, 53, 161, 211, 1034, 3402, 6012, 6014, 6212, 6504 of this title.

§ 72. Annuities; certain proceeds of endowment and life insurance contracts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 37, 46, 50A, 53, 56, 79, 101, 105, 122, 401, 402, 403, 404, 405, 406, 407, 408, 409, 483, 691, 901, 1014, 1023, 1232, 1302, 1304, 1348, 1379, 4973 of this title; title 29 section 1345.

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

§ 105. Amounts received under accident and health plans

EFFECTIVE DATE OF 1976 AMENDMENT

Section 505(f) of Pub. L. 94-455, as added by Pub. L. 95-30, title III, § 301(a), May 23, 1977, 91 Stat. 151, provided that: "The amendment made by subsection (a) [amending subsec. (d) of this section] shall apply to taxable years beginning after December 31, 1976."

REVOCATION OF ELECTION

Pub. L. 95-30, title III, § 301(c), May 23, 1977, 91 Stat. 151, provided that: "Any election made under section 105(d)(7) of the Internal Revenue Code of 1954 or under section 505(d) of the Tax Reform Act of 1976 [set out as a note below] for a taxable year beginning in 1976 may be revoked (in such manner as may be prescribed by regulations) at any time before the expiration of the period for assessing a deficiency with respect to such taxable year (determined without regard to subsection (d) of this section) [set out as a note below]."

PERIOD FOR ASSESSING DEFICIENCY

Pub. L. 95-30, title III, § 301(d), May 23, 1977, 91 Stat. 152, provided that: "In the case of any revocation made under subsection (c) [set out as a note above], the period for assessing a deficiency with respect to any taxable year affected by the revocation shall not expire before the date which is 1 year after the date of the making of the revocation, and, notwithstanding any law or rule of law, such deficiency, to the extent attributable to such revocation, may be assessed at any time during such 1-year period."

EFFECTIVE DATE OF CHANGES IN EXCLUSION FOR SICK PAY

Pub. L. 95-30, title III, § 301(e), May 23, 1977, 91 Stat. 152, provided that:

"The amendments made by this section [enacting and amending notes under this section] shall take effect on October 4, 1976, but shall not apply—

"(1) with respect to any taxpayer who makes or has made an election under section 105(d)(7) of the Internal Revenue Code of 1954 or under section 505(d) of the Tax Reform Act of 1976 [set out as a note below] (as such sections were in effect before the enactment of this Act [May 23, 1977]) for a taxable year beginning in 1976, if such election is not revoked under subsection (c) of this section [set out as a note above], and

"(2) with respect to any taxpayer (other than a taxpayer described in paragraph (1)) who has an annuity starting date at the beginning of a taxable

year beginning in 1976 by reason of the amendments made by section 505 of the Tax Reform Act of 1976 [amending subsec. (d) of this section and section 104 of this title and enacting provisions set out as notes under this section] (as in effect before the enactment of this Act [May 23, 1977]), unless such person elects (in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to have such amendments apply."

SPECIAL RULE FOR EXISTING PERMANENT AND TOTAL DISABILITY CASES

Section 505(c) of Pub. L. 94-455, as amended by Pub. L. 95-30, title III, § 301(b)(1), (2), May 23, 1977, 91 Stat. 151, provided that:

"In the case of any individual who—

"(1) retired before January 1, 1977,

"(2) either retired on disability or was entitled to retire on disability, and

"(3) on January 1, 1976, or January 1, 1977, was permanently and totally disabled (within the meaning of section 105(d)(5) of the Internal Revenue Code of 1954) [subsec. (d)(5) of this section],

such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section)."

SPECIAL RULE FOR COORDINATION WITH SECTION 72 OF THIS TITLE

Section 505(d) of Pub. L. 94-455, as amended by Pub. L. 95-30, title III, § 301(b)(3) to (5), May 23, 1977, 91 Stat. 151, provided that:

"In the case of an individual who—

"(1) retired on disability before January 1, 1977, and

"(2) on December 31, 1975, or December 31, 1976, was entitled to exclude any amount with respect to such retirement disability from gross income under section 105(d) of the Internal Revenue Code of 1954,

for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of such section 105(d) for such year and all subsequent years."

§ 116. Partial exclusion of dividends received by individuals

[*See main edition for text of* (a)]

(b) Certain dividends excluded

Subsection (a) shall not apply to any dividend from—

(1) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or

(2) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (sec. 856 and following).

[*See main edition for text of* (c) *and* (d)]

(As amended Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(d)(1), 90 Stat. 1649.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455, § 1053(d)(1), struck out par. (1), relating to a corporation organized under the China Trade Act, 1922, and redesignated pars. (2) and (3) as (1) and (2), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1053(e) of Pub. L. 94-455 provided that: "The amendments made by subsections (a) and (b) [enacting subsec. (c) of section 941 of this title and amending section 943 of this title] shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsections (c) and (d) [amending sections 116(b), 1504(b)(5), 6072(e) and 6091(b)(2)(B) of this title, and repealing sections 941-943 of this title] shall apply with respect to taxable years beginning after December 31, 1977."

§ 117. Scholarships and fellowship grants

SCHOLARSHIP PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES

Pub. L. 93-483, § 4, Oct. 26, 1974, 88 Stat. 1458, as amended Pub. L. 94-455, title XXI, § 2130, Oct. 4, 1976, 90 Stat. 1922; Pub. L. 95-171, § 5, Nov. 12, 1977, 91 Stat. 1355, provided that:

* * * * *

"(c) Effective Date.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

PART IV—DETERMINATION OF MARITAL STATUS

Sec.
[141, 142. Repealed.]
143. Determination of marital status.
[144, 145. Repealed.]

AMENDMENTS

1977—Pub. L. 95-30, title I, § 101(e)(2), May 23, 1977, 91 Stat. 134, substituted "DETERMINATION OF MARITAL STATUS" for "STANDARD DEDUCTION FOR INDIVIDUALS" as the heading for part IV, and struck out items 141 "Standard deduction", 142 "Individuals not eligible for standard deduction", 144 "Election of standard deduction", and 145 "Cross reference".

[§§ 141, 142. Repealed. Pub. L. 95-30, title I, § 101(d)(1), May 23, 1977, 91 Stat. 133]

Section 141, acts Aug. 16, 1954, ch. 736, 68A Stat. 40; Feb. 26, 1964, Pub. L. 88-272, title I, § 112(a), 78 Stat. 23; Dec. 30, 1969, Pub. L. 91-172, title VIII, § 802(a), (c)(4), (e), 83 Stat. 676, 678; Dec. 10, 1971, Pub. L. 92-178, title II, §§ 202, 203 (a) to (c), title III, § 301(a), 85 Stat. 511, 520; Mar. 29, 1975, Pub. L. 94-12, title II, §§ 201(a), 202(a), 89 Stat. 28, 29; Dec. 23, 1975, Pub. L. 94-164, § 2(a)(1), (b)(1), 89 Stat. 970, 971; Oct. 4, 1976, Pub. L. 94-455, title IV, § 401(b)(1), (2), title XIX, § 1906(b)(13)(A), 90 Stat. 1556, 1834, provided for the standard deduction.

Section 142, act Aug. 16, 1954, ch. 736, 68A Stat. 40, enumerated the individuals not eligible for the standard deduction.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 143. Determination of marital status

(a) General rule

For purposes of part V—

(1) The determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(b) Certain married individuals living apart

For purposes of part V, if—

(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a dependent (A) who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the individual, and (B) with respect to whom such individual is entitled to a deduction for the taxable year under section 151,

(2) such individual furnishes over half of the cost of maintaining such household during the taxable year, and

(3) during the entire taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(4), 91 Stat. 133.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30 substituted "part V" for "this part and part V" in the provisions preceding par. (1).

Subsec. (b). Pub. L. 95-30 substituted "part V" for "this part and part V" in the provisions preceding par. (1).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 2, 37, 42, 43, 63, 105, 219, 220, 1304, 3402, 6012, 6362, 6428 of this title.

[§§ 144, 145. Repealed. Pub. L. 95-30, title I, § 101(d)(1), May 23, 1977, 91 Stat. 133]

Section 144, act Aug. 16, 1954, ch. 736, 68A Stat. 41; Feb. 26, 1964, Pub. L. 88-272, title I, § 112(c), title II, § 232(c), 78 Stat. 24, 110; Dec. 10, 1971, Pub. L. 92-178, title II, § 206, title III, § 301(c), 85 Stat. 511, 520; Oct. 4, 1976, Pub. L. 94-455, title V, § 501(b)(3) to (5), title XIX, § 1906(b)(13)(A), 90 Stat. 1558, 1559, 1834, set out the method for electing to take the standard deduction.

Section 145, act Aug. 16, 1954, ch. 736, 68A Stat. 42, made a cross reference to section 36 of this title.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART V—DEDUCTIONS FOR PERSONAL EXEMPTIONS

§ 151. Allowance of deductions for personal exemptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 42, 43, 44A, 57, 63, 143, 152, 153, 172, 642, 703, 873, 874, 891, 904, 911, 931, 933, 1211, 1402, 1451, 3402, 6012, 6654 of this title.

§ 152. Dependent defined

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 44A, 50B, 105, 120, 143, 151, 153, 170, 213, 7701 of this title; title 5 section 7342; title 20 section 1232g; title 33 section 909.

PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

Sec.
188. Amortization of certain expenditures for child care facilities.

AMENDMENTS

1977—Item 188. Pub. L. 95-30, title IV, § 402(a)(4), May 23, 1977, 91 Stat. 155, struck out "on-the-job training and" following "certain expenditures for".

§ 161. Allowance of deductions

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (sec. 261 and following, relating to items not deductible).

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(1), 91 Stat. 137.)

AMENDMENTS

1977—Pub. L. 95-30 substituted "section 63" for "section 63(a)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 162. Trade or business expenses

STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME

Section 604 of Pub. L. 94-455, as amended by Pub. L. 95-30, title III, § 307, May 23, 1977, 91 Stat. 153, provided that:

"(a) In general.—For purposes of section 162(a) of the Internal Revenue Code of 1954 [subsec. (a) of this section], in the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1977, and who elects the appli-

cation of this section, for any period during such a taxable year in which he was a State legislator—

* * * * *

"(c) Limitation.—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year beginning before January 1, 1976, under an election made under this section shall not exceed the amount claimed for such purpose under a return (or amended return) filed before May 21, 1976.

"(d) Making and effect of election.—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1977, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act [Oct. 4, 1976]."

§ 166. Bad debts

[*See main edition for text of (a) to (c)*]

(d) Nonbusiness debts

(1) General rule

In the case of a taxpayer other than a corporation—

(A) subsections (a) and (c) shall not apply to any nonbusiness debt; and

(B) where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 1 year.

[*See main edition for text of (2); (e) to (g)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (d)(1)(B). Pub. L. 94-455, § 1402(b)(2), provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455, provided in part for the substitution of "1 year" for "9 months" in subsec. (d)(1)(B) and that such substitution would be effective with respect to taxable years beginning after Dec. 31, 1977.

§ 167. Depreciation

[*See main edition for text of (a) to (j)*]

(k) Depreciation of expenditures to rehabilitate low-income rental housing

(1) 60-month rule

The taxpayer may elect, in accordance with regulations prescribed by the Secretary, to compute the depreciation deduction provided by subsection (a) attributable to rehabilitation expenditures incurred with respect to low-income rental housing after July 24, 1969, and before January 1, 1979, under the straight line method using a useful life of 60 months and no salvage value. Such method shall be in lieu of any other method of computing the depreciation deduction under subsection (a), and in lieu of any deduction for amortization, for such expenditures.

[*See main edition for text of (2)*]

(3) Definitions

For purposes of this subsection—

[*See main edition for text of (A) to (C)*]

(D) Rehabilitation expenditures incurred

Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1979, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1979, shall be deemed incurred before January 1, 1979.

[*See main edition for text of (l) to (p)*]

(As amended Nov. 12, 1977, Pub. L. 95-171, § 4(a), 91 Stat. 1355.)

AMENDMENTS

1977—Subsec. (k). Pub. L. 95-171 substituted "January 1, 1979" for "January 1, 1978" wherever appearing in pars. (1) and (3)(D).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 203(b) of Pub. L. 94-455 as amended by Pub. L. 95-171, § 4(b), Nov. 12, 1977, 91 Stat. 1355, provided that: "The amendments made by paragraphs (1), (3), and (4) of subsection (a) [to subsecs. (k)(1), (3)(B), (D) of this section] shall apply to expenditures paid or incurred after December 31, 1975. The amendment made by paragraph (2) of subsection (a) [to subsec. (k)(2)(A) of this section] shall apply to expenditures incurred after December 31, 1975."

§ 169. Amortization of pollution control facilities

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (d)(1)(B), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

Section 302(b) of the Clean Air Act, referred to in subsec. (d)(2), formerly classified to section 1857h(b) of Title 42, was reclassified to section 7602(b) of Title 42 on enactment of Pub. L. 95-95.

§ 170. Charitable, etc., contributions and gifts

[*See main edition for text of (a) to (e)*]

(f) Disallowance of deduction in certain cases and special rules

[*See main edition for text of (1) and (2)*]

(3) Denial of deduction in case of certain contributions of partial interests in property

[*See main edition for text of (A)*]

(B) Exceptions

Subparagraph (A) shall not apply to a contribution of—

(i) a remainder interest in a personal residence or farm,

(ii) an undivided portion of the taxpayer's entire interest in property,

(iii) a lease on, option to purchase, or easement with respect to real property granted in perpetuity to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or

(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.

[*See main edition for text of (C), (4) to (6); (g) to (i)*]

(As amended May 23, 1977, Pub. L. 95-30, title III, § 309(a), 91 Stat. 154.)

AMENDMENTS

1977—Subsec. (f)(3)(B)(iii). Pub. L. 95-30 substituted "real property granted in perpetuity to an organization" for "real property of not less than 30 years' duration granted to an organization".

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 309(b)(1) of Pub. L. 95-30 provided that: "The amendment made by subsection (a) [amending subsec. (f)(3)(B)(iii) of this section] shall apply with respect to contributions or transfers made after June 13, 1977, and before June 14, 1981."

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2124(e)(4) of Pub. L. 94-455, as amended by Pub. L. 95-30, title III, § 309(b)(2), May 23, 1977, 91 Stat. 154, provided that: "The amendments made by this subsection [amending subsec. (f) of this section and sections 2055(e)(2) and 2522(c)(2) of this title] shall apply with respect to contributions or transfers made after June 13, 1976, and before June 14, 1981."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44A, 79, 101, 103, 117, 151, 152, 162, 381, 410, 501, 507 to 509, 512, 535, 545, 556, 584, 642, 664, 674, 677, 702, 703, 809, 873, 882, 931, 1011, 2039, 2055, 2517, 4041, 4221, 4253, 4911, 4941, 4942, 4944, 4945, 4947, 4948, 5214, 6033, 7428 of this title; title 2 sections 439a, 441i; title 16 section 1285; title 20 sections 76m, 954; title 22 section 2876; title 29 section 1052; title 42 section 2996b.

§ 172. Net operating loss deduction

[*See main edition for text of (a) to (c)*]

(d) Modifications

The modifications referred to in this section are as follows:

[*See main edition for text of (1) to (7)*]

(8) Zero bracket amount

In the case of a taxpayer other than a corporation, the zero bracket amount shall be treated as a deduction allowed by this chapter. For purposes of subsection (c)—

(A) the deduction provided by the preceding sentence shall be in lieu of any itemized deductions of the taxpayer, and

(B) such sentence shall not apply to an individual who elects to itemize deductions.

[*See main edition for text of (e) to (i)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(2), 91 Stat. 137.)

AMENDMENTS

1977—Subsec. (d)(8). Pub. L. 95-30 added subsec. (d)(8).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 56, 170, 186, 246, 381, 481, 512, 527, 528, 535, 545, 556, 584, 613A, 642, 703, 804, 809, 822, 823, 844, 852, 904, 1212, 1242, 1244, 1247, 1314, 1341, 1351, 1373, 1374, 1402, 6164, 6411, 6501 of this title; title 49 section 1376.

§ 188. Amortization of certain expenditures for child care facilities

[*See main edition for text of (a)*]

(b) Section 188 property

For purposes of this section, the term "section 188 property" means tangible property which qualifies under regulations prescribed by the Secretary as a child care center facility primarily for the children of employees of the taxpayer; except that such term shall not include—

(1) any property which is not of a character subject to depreciation; or

(2) property located outside the United States.

(c) Application of section

This section shall apply only with respect to expenditures made after December 31, 1971, and before January 1, 1982.

(As amended Pub. L. 95-30, title IV, § 402(a)(1)-(3), May 23, 1977, 91 Stat. 155.)

AMENDMENTS

1977—Pub. L. 95-30, § 402(a)(3), struck out "on-the-job training and" following "expenditures for" in section catchline.

Subsec. (b). Pub. L. 95-30, § 402(a)(2), struck out "as a facility for on-the-job training of employees (or prospective employees) of the taxpayer, or" following "regulations prescribed by the Secretary".

Subsec. (c). Pub. L. 95-30, § 402(a)(1), substituted "January 1, 1982" for "January 1, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 402(b) of Pub. L. 95-30 provided that: "The amendments made by subsection (a) [amending this section and section 57(a)(10) of this title] shall apply with respect to expenditures made after December 31, 1976."

PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

§ 211. Allowance of deductions

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and following, relating to items not deductible).

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(3), 91 Stat. 137.)

AMENDMENTS

1977—Pub. L. 95-30 substituted "section 63" for "section 63(a)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART IX—ITEMS NOT DEDUCTIBLE

Sec.
280C. Portions of wages for which credit is claimed under section 44B.

AMENDMENTS

1977—Pub. L. 95-30, title II, § 202(c)(2), May 23, 1977, 91 Stat. 147, added item 280C.

§ 280A. Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.

[*See main edition for text of (a) and (b)*]

(c) Exceptions for certain business or rental use; limitation on deductions for such use

[*See main edition for text of (1) to (3)*]

(4) Use in providing day care services

(A) In general

Subsection (a) shall not apply to any item to the extent that such item is allocable to the use of any portion of the dwelling unit on a regular basis in the taxpayer's trade or business of providing day care for children, for individuals who have attained age 65, or for individuals who are physically or mentally incapable of caring for themselves.

(B) Licensing, etc., requirement

Subparagraph (A) shall apply to items accruing for a period only if the owner or operator of the trade or business referred to in subparagraph (A)—

(i) has applied for (and such application has not been rejected),

(ii) has been granted (and such granting has not been revoked), or

(iii) is exempt from having,

a license, certification, registration, or approval as a day care center or as a family or group day care home under the provisions of any applicable State law. This subparagraph shall apply only to items accruing in periods beginning on or after the first day of the first month which begins more than 90 days after the date of the enactment of the Tax Reduction and Simplification Act of 1977.

(C) Allocation formula

If a portion of the taxpayer's dwelling unit used for the purposes described in subparagraph (A) is not used exclusively for those purposes, the amount of the expenses attributable to that portion shall not exceed an amount which bears the same ratio to the total amount of the items allocable to such portion as the number of hours the portion is used for such purposes bears to the number of hours the portion is available for use.

(5) Limitation on deductions

In the case of a use described in paragraph (1), (2), or (4), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this chapter for the taxable year by reason of being attributed to such use shall not exceed the excess of—

(A) the gross income derived from such use for the taxable year, over

(B) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used.

[*See main edition for text of (d) to (g)*]

(As amended Pub. L. 95-30, title III, § 306(a), (b), May 23, 1977, 91 Stat. 152, 153.)

REFERENCES IN TEXT

The date of enactment of the Tax Reduction and Simplification Act of 1977, referred to in subsec. (c)(4)(B), is the date of enactment of Pub. L. 95-30, 91 Stat. 126, which was May 23, 1977.

AMENDMENTS

1977—Subsec. (c)(4). Pub. L. 95-30, § 306(a), added subsec. (c)(4). Former subsec. (c)(4) redesignated (c)(5).

Subsec. (c)(5). Pub. L. 95-30, § 306(a), (b), redesignated former subsec. (c)(4) as (c)(5) and, in subsec. (c)(5) as so redesignated, substituted "paragraph (1), (2), or (4)" for "paragraph (1) or (2)" in the provisions preceding subpar. (A).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 306(c) of Pub. L. 95-30 provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1975."

§ 280C. Portion of wages for which credit is claimed under section 44B

No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 44B (relating to credit for employment of certain new employees) determined without regard to the provisions of section 53 (relating to limitation based on amount of tax). In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 52(a)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 52(b)), this section shall be applied under rules prescribed by the Secretary similar to the rules applicable under subsections (a) and (b) of section 52.

(Added Pub. L. 95-30, title II, § 202(c)(1), May 23, 1977, 91 Stat. 147.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

Subchapter C—Corporate Distributions and Adjustments

PART II—CORPORATE LIQUIDATIONS

SUBPART A—EFFECTS ON RECIPIENTS

§ 333. Election as to recognition of gain in certain liquidations

LIQUIDATIONS BEFORE JANUARY 1, 1966

Section 225(h) of Pub. L. 88-272 provided that in the case of corporations referred to in former subsec. (g)(3) of this section the amendments made by section 225 of Pub. L. 88-272 do not apply if there is a complete liquidation of such corporation and if the distribution of all the property under such liquidation occurs before Jan. 1, 1966, except for certain liquidations to which section 332 of this title applies.

SUBPART C—COLLAPSIBLE CORPORATIONS

§ 341. Collapsible corporations

(a) Treatment of gain to shareholders

Gain from—

(1) the sale or exchange of stock of a collapsible corporation,

(2) a distribution in partial or complete liquidation of a collapsible corporation, which distribution is treated under this part as in part or full payment in exchange for stock, and

(3) a distribution made by a collapsible corporation which, under section 301(c)(3)(A), is treated, to the extent it exceeds the basis of the stock, in the same manner as a gain from the sale or exchange of property,

to the extent that it would be considered (but for the provisions of this section) as gain from the sale or exchange of a capital asset held for more than 1 year shall, except as otherwise provided in this section, be considered as ordinary income.

[*See main edition for text of (b) to (f)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for substitution of "1 year" for "9 months" in subsec. (a) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

PART III—CORPORATE ORGANIZATIONS AND REORGANIZATIONS

SUBPART B—EFFECTS ON SHAREHOLDERS AND SECURITY HOLDERS

§ 356. Receipt of additional consideration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 306, 312, 354, 355, 358, 367, 368, 425, 1101, 1223, 6166, 6166A of this title.

SUBPART D—SPECIAL RULE; DEFINITIONS

§ 368. Definitions relating to corporate reorganizations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247, 249, 279, 306, 351, 354, 355, 357, 381, 382, 402, 512, 815, 995, 1101, 1103, 1232, 1244, 4912, 4920, 6166, 6166A, 6901 of this title; title 12 section 1717.

PART V—CARRYOVERS

Sec.
383. Special limitations on carryovers of unused investment credits, work incentive program credits, new employee credits, foreign taxes, and capital losses.

AMENDMENTS

1977—Pub. L. 95-30, title II, § 202(d)(3)(D), May 23, 1977, 91 Stat. 148, added "new employee credits," following "work incentive program credits," in item 383.

§ 381. Carryovers in certain corporate acquisitions

[*See main edition for text of (a) and (b)*]

(c) Items of the distributor or transferor corporation

The items referred to in subsection (a) are:

[*See main edition for text of (1) to (25)*]

(26) Credit under section 44B for employment of certain new employees

The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44B, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44B in respect of the distributor or transferor corporation.

[*See main edition for text of (d)*]

(As amended May 23, 1977, Pub. L. 95-30, title II, § 202(d)(3)(A), 91 Stat. 148.)

AMENDMENTS

1977—Subsec. (c)(26). Pub. L. 95-30 added subsec. (c)(26).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

§ 383. Special limitations on carryovers of unused investment credits, work incentive program credits, new employee credits, foreign taxes, and capital losses

If—

(1) the ownership and business of a corporation are changed in the manner described in section 382(a)(1), or

(2) in the case of a reorganization specified in paragraph (2) of section 381(a), there is a change in ownership described in section 382(b)(1)(B),

then the limitations provided in section 382 in such cases with respect to the carryover of net

operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation which can otherwise be carried forward under section 46(b), to any unused work incentive program credit of the corporation which can otherwise be carried forward under section 50A(b), to any unused new employee credit of the corporation which could otherwise be carried forward under section 53(c), to any excess foreign taxes of the corporation which can otherwise be carried forward under section 904(c), and to any net capital loss of the corporation which can otherwise be carried forward under section 1212.

(Added Pub. L. 92-178, title III, § 302(a), Dec. 10, 1971, 85 Stat. 521, and amended Pub. L. 94-455, title X, § 1031(b)(5), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1623, 1834; Pub. L. 95-30, title II, § 202(d)(3)(C), May 23, 1977, 91 Stat. 148.)

TAXABLE YEARS ENDING BEFORE JULY 1, 1978

Section 383, set out above, as it relates to section 382(a) of this title is applicable to taxable years ending before July 1, 1978.

REORGANIZATIONS PURSUANT TO PLANS ADOPTED ON OR AFTER JANUARY 1, 1978

Pub. L. 94-455, title VIII, § 806(g)(3), Oct. 4, 1976, 90 Stat., 1606, provided that for purposes of applying this section as it relates to section 382(b) of this title, as amended by section 806(e) of Pub. L. 94-455, to reorganizations adopted by one or more of the parties on or after Jan. 1, 1978, this section reads as set out below.

§ 383. Special limitations on unused investment credits, work incentive program credits, new employee credits, foreign taxes, and capital losses

In the case of a change of ownership of a corporation in the manner described in section 382 (a) or (b), the limitations provided in section 382 in such cases with respect to net operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation under section 46(b), to any unused work incentive program credit of the corporation under section 50A(b), to any unused new employee credit of the corporation which could otherwise be carried forward under section 53(c), to any excess foreign taxes of the corporation under section 904(d), and to any net capital loss of the corporation under section 1212.

(Added Pub. L. 92-178, title III, § 302(a), Dec. 10, 1971, 85 Stat. 521, and amended Pub. L. 94-455, title VIII, § 806(f)(2), title X, § 1031(b)(5), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1605, 1623, 1834; Pub. L. 95-30, title II, § 202(d)(3)(C) May 23, 1977, 91 Stat. 148.)

TAXABLE YEARS BEGINNING AFTER JUNE 30, 1978

Pub. L. 94-455, title VIII, § 806(g)(2), Oct. 4, 1976, 90 Stat. 1605, provided that for the purposes of applying this section as it relates to section 382(a) of this title, as amended by section 806(e) of Pub. L. 94-455, to taxable years beginning after June 30, 1978, this section will read as set out below.

§ 383. Special limitations on unused investment credits, work incentive program credits, new employee credits, foreign taxes, and capital losses

In the case of a change of ownership of a corporation in the manner described in section 382(a) or (b), the limitations provided in section 382 in such cases with respect to net operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation under section 46(b), to any unused work incentive program credit of the corporation under section 50A(b), to any unused new employee credit of the corporation under section 53(c), to any excess foreign taxes of the corporation under section 904(d), and to any net capital loss of the corporation under section 1212.

(Added Pub. L. 92-178, title III, § 302(a), Dec. 10, 1971, 85 Stat. 521, and amended Pub. L. 94-455, title VIII, § 806(f)(2), title X, § 1031(b)(5), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1605, 1623, 1834; Pub. L. 95-30, title II, § 202(d)(3)(B), May 23, 1977, 91 Stat. 148.)

AMENDMENTS

1977—Pub. L. 95-30, § 202(d)(3)(C), in sections 383 set out first and second, inserted "to any unused new employee credit of the corporation which could otherwise be carried forward under section 53(c)" in text and "new employee credits," in catchline.

Pub. L. 95-30, § 202(d)(3)(B), in section 383 set out third, inserted "to any unused new employee credit of the corporation under section 53(c)" in text and "new employee credits," in catchline.

1976—Pub. L. 94-455, § 806(f)(2), in sections 383 set out second and third, substituted provisions that the net operating loss limitations in section 382 shall apply to unused investment credits under section 46(b), to unused work incentive program credits under section 50A(b), to excess foreign taxes under section 904(d) and to net capital losses under section 1212 for provisions that the net operating loss carryover limitations in section 382 shall apply, in the case of ownership changes described in section 382(a)(1) or reorganizations specified in section 381(a)(2) resulting in ownership changes described in section 382(b)(1)(B), to unused investment credits under section 46(b), to unused work incentive program credits under section 50A(B), to excess foreign taxes under section 904(c), and to net capital losses under section 1212.

Subchapter D—Deferred Compensation, Etc.

PART I—PENSION, PROFIT-SHARING, STOCK BONUS PLANS, ETC.

SUBPART A—GENERAL RULE

§ 402. Taxability of beneficiary of employees' trust

(a) Taxability of beneficiary of exempt trust

[*See main edition for text of (1)*]

(2) Capital gains treatment for certain distributions

In the case of an employee trust described in section 401(a), which is exempt from tax under section 501(a), so much of the total

taxable amount (as defined in subparagraph (D) of subsection (e)(4)) of a lump sum distribution as is equal to the product of such total taxable amount multiplied by a fraction—

(A) the numerator of which is the number of calendar years of active participation by the employee in such plan before January 1, 1974, and

(B) the denominator of which is the number of calendar years of active participation by the employee in such plan,

shall be treated as a gain from the sale or exchange of a capital asset held for more than 1 year. For purposes of computing the fraction described in this paragraph and the fraction under subsection (e)(4)(E), the Secretary may prescribe regulations under which plan years may be used in lieu of calendar years. For purposes of this paragraph, in the case of an individual who is an employee without regard to section 401(c)(1), determination of whether or not any distribution is a lump sum distribution shall be made without regard to the requirement that an election be made under subsection (e)(4)(B), but no distribution to any taxpayer other than an individual, estate, or trust may be treated as a lump sum distribution under this paragraph.

[*See main edition for text of (3) to (6); (b) to (d)*]

(e) Tax on lump sum distributions

(1) Imposition of separate tax on lump sum distributions

[*See main edition for text of (A) and (B)*]

(C) Initial separate tax

The initial separate tax for any taxable year is an amount equal to 10 times the tax which would be imposed by subsection (c) of section 1 if the recipient were an individual referred to in such subsection and the taxable income were an amount equal to $2,200 plus one-tenth of the excess of—

(i) the total taxable amount of the lump sum distribution for the taxable year, over

(ii) the minimum distribution allowance.

[*See main edition for text of (D) and (E), (2) and (3)*]

(4) Definitions and special rules

[*See main edition for text of (A) to (K)*]

(L) Election to treat pre-1974 participation as post-1973 participation

For purposes of subparagraph (E), subsection (a)(2), and section 403(a)(2), if a taxpayer elects (at the time and in the manner provided under regulations prescribed by the Secretary), all calendar years of an employee's active participation in all plans in which the employee has been an active participant shall be considered years of active participation by such employee after December 31, 1973. An election made under this subparagraph, once made, shall be irrevocable and shall apply to all lump-sum distributions received by the taxpayer with respect to the employee. This subparagraph shall not apply if the taxpayer received a lump-sum distribution in a previous taxable year of the employee beginning after December 31, 1975, unless no portion of such lump-sum distribution was treated under subsection (a)(2) or section 403(a)(2) as gain from the sale or exchange of a capital asset held for more than 1 year.

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732; May 23, 1977, Pub. L. 95-30, title I, § 102(b)(4), 91 Stat. 137.)

AMENDMENTS

1977—Subsec. (e)(1)(C). Pub. L. 95-30 substituted "amount equal to $2,200 plus one-tenth of the excess of" for "amount equal to one-tenth of the excess of" in the provisions preceding cl. (i).

1976—Subsec. (a)(2). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

Subsec. (e)(4)(L). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsecs. (a)(2) and (e)(4)(L) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 37, 46, 50A, 53, 56, 62, 101, 219, 220, 401, 403, 405, 406, 407, 408, 409, 415, 871, 901, 911, 1348, 1379, 1441, 2039, 4973 of this title.

§ 403. Taxation of employee annuities

(a) Taxability of beneficiary under a qualified annuity plan

[*See main edition for text of (1)*]

(2) Capital gains treatment for certain distributions

(A) General rule

If—

(i) an annuity contract is purchased by an employer for an employee under a plan described in paragraph (1);

(ii) such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan; and

(iii) a lump sum distribution (as defined in section 402(e)(4)(A)) is paid to the recipient,

so much of the total taxable amount (as defined in section 402(e)(4)(D)) of such distribution as is equal to the product of such total taxable amount multiplied by the fraction described in section 402(a)(2) shall be treated as a gain from the sale or exchange of a capital asset held for more than 1 year. For purposes of this paragraph, in the case

of an individual who is an employee without regard to section 401(c)(1), determination of whether or not any distribution is a lump sum distribution shall be made without regard to the requirement that an election be made under subsection (e)(4)(B) of section 402, but no distribution to any taxpayer other than an individual, estate, or trust may be treated as a lump sum distribution under this paragraph.

[*See main edition for text of (B), (3) to (5); (b) and (c)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(2)(A). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a)(2)(A) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 408. Individual retirement accounts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 37, 46, 50A, 53, 56, 72, 219, 220, 402, 403, 409, 415, 805, 901, 2039, 2517, 4973, 4974, 4975, 6047, 6058, 6104, 6693 of this title; title 12 section 1464; title 29 sections 1051, 1081, 1103, 1107, 1108.

PART II—CERTAIN STOCK OPTIONS

§ 423. Employee stock purchase plans

(a) General rule

Section 421(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise of an option granted after December 31, 1963 (other than a restricted stock option granted pursuant to a plan described in section 424(c)(3)(B)), under an employee stock purchase plan (as defined in subsection (b)) if—

(1) no disposition of such share is made by him within 2 years after the date of the granting of the option nor within 1 year after the transfer of such share to him; and

[*See main edition for text of (2); (b) and (c)*]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a)(1) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 424. Restricted stock options

(a) In general

Section 421(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise after 1949 of a restricted stock option, if—

(1) no disposition of such share is made by him within 2 years from the date of the granting of the option nor within 1 year after the transfer of such share to him, and

[*See main edition for text of (2); (b)*]

(c) Special rules

(1) Options under which option price is between 85 percent and 95 percent of value of stock

If no disposition of a share of stock acquired by an individual on his exercise after 1949 of a restricted stock option is made by him within 2 years from the date of the granting of the option nor within 1 year after the transfer of such share to him, at the time the restricted stock option was granted, the option price (computed under subsection (b)(1)) was less than 95 percent of the fair market value at such time of such share, then, in the event of any disposition of such share by him but, or in the event of his death (whenever occurring) while owning such share, there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income, for the taxable year in which falls the date of such disposition or for the taxable year closing with his death, whichever applies—

[*See main edition for text of (A) and (B)*]

(2) Variable price option

For purposes of subsection (b)(1), the term "variable price option" means an option under which the purchase price of the stock is fixed or determinable under a formula in which the only variable is the fair market value of the stock at any time during a period of 1 year which includes the time the option is exercised; except that in the case of options granted after September 30, 1958, such term does not include any such option in which such formula provides for determining such price by reference to the fair market value of the stock at any time before the option is exercised if such value may be greater than the average fair market value of the stock during the calendar month in which the option is exercised.

[*See main edition for text of (3)*]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

Subsec. (c)(1), (2). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsecs. (a) and (c)(1), (2) and that such substitution

would be effective for taxable years beginning after Dec. 31, 1977.

Subchapter E—Accounting Periods and Methods of Accounting

PART I—ACCOUNTING PERIODS

§ 441. Period for computation of taxable income

[*See main edition for text of (a) to (e)*]

(f) Election of year consisting of 52-53 weeks

[*See main edition for text of (1)*]

(2) Special rules for 52-53 week year

[*See main edition for text of (A)*]

(B) Change in accounting period

In the case of a change from or to a taxable year described in paragraph (1)—

[*See main edition for text of (i) and (ii)*]

(iii) if such change results in a short period to which subsection (b) of section 443 applies, the taxable income for such short period shall be placed on an annual basis for purposes of such subsection by multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions as described in section 443(c)) by 365, by dividing the result by the number of days in the short period, and by adding the zero bracket amount, and the tax shall be the same part of the tax computed on the annual basis as the number of days in the short period is of 365 days.

[*See main edition for text of (3); (g)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(5), 91 Stat. 137.)

AMENDMENTS

1977—Subsec. (f)(2)(B)(iii). Pub. L. 95-30 substituted "multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions as described in section 443(c)) by 365, by dividing the result by the number of days in the short period, and by adding the zero bracket amount" for "multiplying such income by 365 and dividing the result by the number of days in the short period".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 443. Returns for a period of less than 12 months

[*See main edition for text of (a)*]

(b) Computation of tax on change of annual accounting period

(1) General rule

If a return is made under paragraph (1) of subsection (a), the taxable income for the short period shall be placed on an annual basis by multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions) by 12, dividing the result by the number of months in the short period, and adding the zero bracket amount. The tax shall be the same part of the tax computed on the annual basis as the number of months in the short period is of 12 months.

[*See main edition for text of 2; (c) to (e)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(6), 91 Stat. 137.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-30 substituted "multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions) by 12, dividing the result by the number of months in the short period, and adding the zero bracket amount" for "multiplying such income by 12 and dividing the result by the number of months in the short period".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 441, 536, 546, 557, 818, 852, 857, 6012, 6013 of this title.

PART II—METHODS OF ACCOUNTING

SUBPART A—METHODS OF ACCOUNTING IN GENERAL

§ 447. Method of accounting for corporations engaged in farming

EFFECTIVE DATE

Section 207(c)(2) of Pub. L. 94-455, as amended by Pub. L. 95-30, title IV, § 404, May 23, 1977, 91 Stat. 155, provided that:

"(A) In general—Except as provided in subparagraph (B), the amendments made by paragraph (1) [adding this section] shall apply to taxable years beginning after December 31, 1976.

"(B) Special rule for certain corporations—In the case of a corporation engaged in the trade or business of farming and with respect to which—

"(i) members of two families (within the meaning of paragraph (1) of section 447(d) of the Internal Revenue Code of 1954, as added by paragraph (1)) owned, on October 4, 1976 (directly or through the application of such section 447(d)), at least 65 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 65 percent of the total number of shares of all other classes of stock of such corporation; or

"(ii) members of three families (within the meaning of paragraph (1) of such section 447(d)) owned, on October 4, 1976 (directly or through the application of such section 447(d)), at least 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of such corporation; and substantially all of the stock of such corporation which

was not so owned (directly or through the application of such section 447(d)), by members of such three families was owned, on October 4, 1976, directly—

"(I) by employees of the corporation or members of the families (within the meaning of section 267(c)(4) of such Code) of such employees, or

"(II) by a trust for the benefit of the employees of such corporation which is described in section 401(a) of such Code and which is exempt from taxation under section 501(a) of such Code,

the amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1977."

Subchapter F—Exempt Organizations

PART I—GENERAL RULE

§ 501. Exemption from tax on corporations, certain trusts, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 37, 72, 101, 103, 104, 116, 117, 170, 219, 246, 267, 274, 311, 318, 382, 401 to 405, 408 to 412, 414, 415, 502, 504, 507, 508, 509, 511, 512, 513, 514, 527, 542, 642, 681, 805, 821, 871, 911, 992, 1504, 1563, 2039, 2055, 2517, 2522, 3121, 3303, 3306, 3401, 4041, 4221, 4251, 4253, 4294, 4421, 4911, 4940, 4941, 4942, 4945, 4947, 4948, 4975, 5214, 6033, 6043, 6047, 6104, 6110, 6420, 6421, 6424, 6427, 6501, 7428, 7609, 7802, 9012 of this title; title 5 sections 3102, 4111; title 12 section 1843; title 15 sections 77c, 1291; title 18 sections 1511, 1955; title 20 sections 76m, 1681; title 29 sections 169, 303, 706, 1002, 1051, 1052, 1081, 1086, 1321; title 40 sections 483, 484; title 42 sections 300e-9, 409, 410, 1301, 1395x, 1760, 1766, 1784, 2000e, 2996b, 3056; title 50 section 790.

PART II—PRIVATE FOUNDATIONS

§ 507. Termination of private foundation status

APPLICABILITY TO DETERMINATION OF STATUS AS SUBSTANTIAL CONTRIBUTOR FOR PURPOSES OF TAXES ON SELF-DEALING OF CONTRIBUTIONS MADE PRIOR TO OCTOBER 9, 1969

Pub. L. 95-170, § 3, Nov. 12, 1977, 91 Stat. 1352, provided that:

"In determining whether a person is a substantial contributor within the meaning of section 507(d)(2) of the Internal Revenue Code of 1954 for purposes of applying section 4941 of such Code (relating to taxes on self-dealing), contributions made before October 9, 1969, which—

"(1) were made on account of or in lieu of payments required under a lease in effect before such date, and

"(2) were coincident with or by reason of the reduction in the required payments under such lease,

shall not be taken into account. For purposes of applying section 507(d)(2)(B)(iv) of such Code, the preceding sentence shall be treated as having taken effect on January 1, 1970."

PART III—TAXATION OF BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

§ 511. Imposition of tax on unrelated business income of charitable, etc., organizations

[*See main edition for text of* (a)]

(b) Tax on charitable, etc., trusts

(1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income of every trust described in paragraph (2) a tax computed as provided in section 1(e). In making such computation for purposes of this section, the term "taxable income" as used in section 1 shall be read as "unrelated business taxable income" as defined in section 512.

[*See main edition for text of* (2); (c) *and* (d)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(6), 91 Stat. 133.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-30 substituted "section 1(e)" for "section 1(d)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART IV—FARMERS' COOPERATIVES

§ 521. Exemptions of farmers' cooperatives from tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48, 52, 116, 246, 1245, 1250, 1251, 1381, 3306, 4421, 6044 of this title; title 15 section 77c.

Subchapter G—Corporations Used to Avoid Income Tax on Shareholders

PART I—CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

§ 531. Imposition of accumulated earnings tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 46, 50A, 53, 56, 111, 532, 534, 535, 536, 545, 556, 563, 901 of this title; title 46 section 1177.

PART II—PERSONAL HOLDING COMPANIES

§ 541. Imposition of personal holding company tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 50A, 53, 56, 111, 535, 545, 546, 547, 556, 563, 882, 901, 992, 6683 of this title.

§ 543. Personal holding company income

(a) General rule

For purposes of this subtitle, the term "personal holding company income" means the portion of the adjusted ordinary gross income which consists of:

[*See main edition for text of* (1) *to* (3)]

(4) Copyright royalties

Copyright royalties; except that copyright royalties shall not be included if—

[*See main edition for text of* (A) *to* (C)]

For purposes of this subsection, the term "copyright royalties" means compensation, however designated, for the use of, or the right to use, copyrights in works protected by copyright issued under title 17 of the United

States Code and to which copyright protection is also extended by the laws of any country other than the United States of America by virtue of any international treaty, convention, or agreement, or interests in any such copyrighted works, and includes payments from any person for performing rights in any such copyrighted work and payments (other than produced film rents as defined in paragraph (5)(B)) received for the use of, or right to use, films. For purposes of this paragraph, the term "shareholder" shall include any person who owns stock within the meaning of section 544.

[*See main edition for text of (5) to (8); (b) and (c)*]

(As amended Oct. 19, 1976, Pub. L. 94-553, § 105(d), 90 Stat. 2599.)

AMENDMENTS

1976—Subsec. (a)(4). Pub. L. 94-553 struck out "(other than by reason of section 2 or 6 thereof)" following "title 17 of the United States Code".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 to subsec. (a)(4) effective Jan. 1, 1978, see section 102 of Pub. L. 94-553 set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

Subchapter H—Banking Institutions

PART I—RULES OF GENERAL APPLICATION TO BANKING INSTITUTIONS

§ 582. Bad debts, losses, and gains with respect to securities held by financial institutions

[*See main edition for text of (a) and (b)*]

(c) Bond, etc., losses and gains of financial institutions

[*See main edition for text of (1)*]

(2) Transitional rule for banks

In the case of a bank, if the net long-term capital gains of the taxable year from sales or exchanges of qualifying securities exceed the net short-term capital losses of the taxable year from such sales or exchanges, such excess shall be considered as gain from the sale of a capital asset held for more than 1 year to the extent it does not exceed the net gain on sales and exchanges described in paragraph (1).

[*See main edition for text of (3) and (4)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (c)(2). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (c)(2) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 584. Common trust funds

[*See main edition for text of (a) and (b)*]

(c) Income of participants in fund

(1) Inclusions in taxable income

Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

(A) as part of its gains and losses from sales or exchanges of capital assets held for not more than 1 year, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 1 year;

(B) as part of its gains and losses from sales or exchanges of capital assets held for more than 1 year, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 1 year;

(C) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

[*See main edition for text of (2)*]

(d) Computation of common trust fund income

The taxable income of a common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) there shall be segregated the gains and losses from sales or exchanges of capital assets;

(2) after excluding all items of gain and loss from sales or exchanges of capital assets, there shall be computed—

(A) an ordinary taxable income which shall consist of the excess of the gross income over deductions; or

(B) an ordinary net loss which shall consist of the excess of the deductions over the gross income; and

(3) the deduction provided by section 170 (relating to charitable, etc., contributions and gifts) shall not be allowed.

[(4) Repealed. Pub. L. 95-30, title I, § 101(d)(7)(C), May 23, 1977, 91 Stat. 133.]

[*See main edition for text of (e) to (g)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732; May 23, 1977, Pub. L. 95-30, title I, § 101(d)(7), 91 Stat. 133.)

AMENDMENTS

1977—Subsec. (d)(4). Pub. L. 95-30 struck out subsec. (d)(4) relating to the standard deduction.

1976—Subsec. (c)(1)(A), (B). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year" wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (c)(1)(A), (B) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

PART II—MUTUAL SAVINGS BANKS, ETC.

§ 593. Reserves for losses on loans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 50B, 52, 57, 166, 172, 582, 585, 595, 596, 992, 1038 of this title.

Subchapter I—Natural Resources

PART I—DEDUCTIONS

§ 613. Percentage depletion

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 57, 163, 381, 611, 613A, 614, 617, 631, 636, 901, 903, 1082, 4940 of this title.

§ 613A. Limitations on percentage depletion in case of oil and gas wells

[*See main edition for text of (a) to (c)*]

(d) Limitations on application of subsection (c)

(1) Limitation based on taxable income

The deduction for the taxable year attributable to the application of subsection (c) shall not exceed 65 percent of the taxpayer's taxable income (reduced in the case of an individual by the zero bracket amount) for the year computed without regard to—

[*See main edition for text of (A) to (D)*]

If an amount is disallowed as a deduction for the taxable year by reason of application of the preceding sentence, the disallowed amount shall be treated as an amount allowable as a deduction under subsection (c) for the following taxable year, subject to the application of the preceding sentence to such taxable year. For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction on the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties under subsection (c).

[*See main edition for text of (2) to (4); (e)*]

(As amended Pub. L. 95-30, title I, § 102(b)(7), May 23, 1977, 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-30 inserted "(reduced in the case of an individual by the zero bracket amount)" following "the taxpayer's taxable income" in the provisions preceding subpar. (A).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

PART III—SALES AND EXCHANGES

§ 631. Gain or loss in the case of timber, coal, or domestic iron ore

(a) Election to consider cutting as sale or exchange

If the taxpayer so elects on his return for a taxable year, the cutting of timber (for sale or for use in the taxpayer's trade or business) during such year by the taxpayer who owns, or has a contract right to cut, such timber (providing he has owned such timber or has held such contract right for a period of more than 1 year) shall be considered as a sale or exchange of such timber cut during such year. If such election has been made, gain or loss to the taxpayer shall be recognized in an amount equal to the difference between the fair market value of such timber, and the adjusted basis for depletion of such timber in the hands of the taxpayer. Such fair market value shall be the fair market value as of the first day of the taxable year in which such timber is cut, and shall thereafter be considered as the cost of such cut timber to the taxpayer for all purposes for which such cost is a necessary factor. If a taxpayer makes an election under this subsection, such election shall apply with respect to all timber which is owned by the taxpayer or which the taxpayer has a contract right to cut and shall be binding on the taxpayer for the taxable year for which the election is made and for all subsequent years, unless the Secretary, on showing of undue hardship, permits the taxpayer to revoke his election; such revocation, however, shall preclude any further elections under this subsection except with the consent of the Secretary. For purposes of this subsection and subsection (b), the term "timber" includes evergreen trees which are more than 6 years old at the time severed from the roots and are sold for ornamental purposes.

(b) Disposal of timber with a retained economic interest

In the case of the disposal of timber held for more than 1 year before such disposal, by the owner thereof under any form or type of contract by virtue of which such owner retains an economic interest in such timber, the difference between the amount realized from the disposal of such timber and the adjusted depletion basis thereof, shall be considered as though it were a gain or loss, as the case may be, on the sale of such timber. In determining the gross income, the adjusted gross income, or the taxable income of the lessee, the deductions allowable with respect to rents and royalties shall be determined without regard to the provisions of this subsection. The date of disposal of such

timber shall be deemed to be the date such timber is cut, but if payment is made to the owner under the contract before such timber is cut the owner may elect to treat the date of such payment as the date of disposal of such timber. For purposes of this subsection, the term "owner" means any person who owns an interest in such timber, including a sublessor and a holder of a contract to cut timber.

(c) Disposal of coal or domestic iron ore with a retained economic interest

In the case of the disposal of coal (including lignite), or iron ore mined in the United States, held for more than 1 year before such disposal, by the owner thereof under any form of contract by virtue of which such owner retains an economic interest in such coal or iron ore, the difference between the amount realized from the disposal of such coal or iron ore and the adjusted depletion basis thereof plus the deductions disallowed for the taxable year under section 272 shall be considered as though it were a gain or loss, as the case may be, on the sale of such coal or iron ore. Such owner shall not be entitled to the allowance for percentage depletion provided in section 613 with respect to such coal or iron ore. This subsection shall not apply to income realized by any owner as a coadventurer, partner, or principal in the mining of such coal or iron ore, and the word "owner" means any person who owns an economic interest in coal or iron ore in place, including a sublessor. The date of disposal of such coal or iron ore shall be deemed to be the date such coal or iron ore is mined. In determining the gross income, the adjusted gross income, or the taxable income of the lessee, the deductions allowable with respect to rents and royalties shall be determined without regard to the provisions of this subsection. This subsection shall have no application, for purposes of applying subchapter G, relating to corporations used to avoid income tax on shareholders (including the determinations of the amount of the deductions under section 535(b)(6) or section 545(b)(5)). This subsection shall not apply to any disposal of iron ore—

(1) to a person whose relationship to the person disposing of such iron ore would result in the disallowance of losses under section 267 or 707(b), or

(2) to a person owned or controlled directly or indirectly by the same interests which own or control the person disposing of such iron ore.

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsecs. (a), (b), (c). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsecs. (a), (b), and (c) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

Subchapter J—Estates, Trusts, Beneficiaries, and Decedents

PART I—ESTATES, TRUSTS, AND BENEFICIARIES

SUBPART A—GENERAL RULES FOR TAXATION OF ESTATES AND TRUSTS

§ 641. Imposition of tax

(a) Application of tax

The tax imposed by section 1(e) shall apply to the taxable income of estates or of any kind of property held in trust, including—

[*See main edition for text of (1) to (4); (b) and (c)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(8), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30 substituted "section 1(e)" for "section 1(d)" in the provisions preceding par. (1).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 642. Special rules for credits and deductions

[*See main edition for text of (a) and (b)*]

(c) Deduction for amounts paid or permanently set aside for a charitable purpose

[*See main edition for text of (1) and (2)*]

(3) Pooled income funds

In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 1 year, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) Adjustments

To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

[*See main edition for text of (5) and (6); (d) to (j)*]

(k) Cross reference

For special rule for determining the time of receipt of dividends by a beneficiary under section 652 or 662, see section 116(c)(3).

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732; May 23, 1977, Pub. L. 95-30, title I, § 101(d)(9), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (k). Pub. L. 95-30 struck out par. (1) which made a cross reference to section 142(b)(4) for disallowance of the standard deduction in the case of estates and trusts and struck out "(2)" at the beginning of the single remaining cross reference.

1976—Subsec. (c)(3), (4). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (c)(3), (4) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

SUBPART D—TREATMENT OF EXCESS DISTRIBUTIONS BY TRUSTS

§ 667. Treatment of amounts deemed distributed by trust in preceding years

[*See main edition for text of* (a)]

(b) Tax on distribution

[*See main edition for text of* (1).]

(2) Treatment of loss years

For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than—

(A) in the case of a beneficiary who is an individual, the zero bracket amount for such year, or

(B) in the case of a beneficiary who is a corporation, zero.

[*See main edition for text of* (3) *to* (5); (c)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(8), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-30 substituted "not less than (A) in the case of a beneficiary who is an individual, the zero bracket amount for such year, or (B) in the case of a beneficiary who is a corporation, zero" for "not less than zero".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

Subchapter K—Partners and Partnerships

PART I—DETERMINATION OF TAX LIABILITY

§ 702. Income and credits of partner

(a) General rule

In determining his income tax, each partner shall take into account separately his distributive share of the partnership's—

(1) gains and losses from sales or exchanges of capital assets held for not more than 1 year,

(2) gains and losses from sales or exchanges of capital assets held for more than 1 year,

[*See main edition for text of* (3) *to* (8); (b) *and* (c)]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(1), (2). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a)(1), (2) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 703. Partnership computations

(a) Income and deductions

The taxable income of a partnership shall be computed in the same manner as in the case of an individual except that—

(1) the items described in section 702(a) shall be separately stated, and

(2) the following deductions shall not be allowed to the partnership:

(A) the deductions for personal exemptions provided in section 151,

(B) the deduction for taxes provided in section 164(a) with respect to taxes, described in section 901, paid or accrued to foreign countries and to possessions of the United States,

(C) the deduction for charitable contributions provided in section 170,

(D) the net operating loss deduction provided in section 172,

(E) the additional itemized deductions for individuals provided in part VII of subchapter B (sec. 211 and following), and

(F) the deduction for depletion under section 611 with respect to oil and gas wells.

[*See main edition for text of* (b)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(10), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-30 struck out subpar. (A), which made reference to the standard deduction provided in section 141, and redesignated subpars. (B) to (G) as (A) to (F), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

Subchapter L—Insurance Companies

PART I—LIFE INSURANCE COMPANIES

SUBPART E—MISCELLANEOUS PROVISIONS

§ 817. Rules relating to certain gains and losses

(a) Treatment of capital gains and losses, etc.

In the case of a life insurance company—

(1) in applying section 1231(a), the term "property used in the trade or business" shall be treated as including only—

(A) property used in carrying on an insurance business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than 9 months, and real property used in carrying on an insurance business, held for more than 1 year, which is not described in section 1231(b)(1)(A), (B), or (C), and

(B) property described in section 1231(b)(2), and

(2) in applying section 1221(2), the reference to property used in trade or business shall be treated as including only property used in carrying on an insurance business.

[*See main edition for text of* (b)]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(1)(A). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a)(1)(A) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

PART II—MUTUAL INSURANCE COMPANIES (OTHER THAN LIFE AND CERTAIN MARINE INSURANCE COMPANIES AND OTHER THAN FIRE OR FLOOD INSURANCE COMPANIES WHICH OPERATE ON BASIS OF PERPETUAL POLICIES OR PREMIUM DEPOSITS)

§ 821. Tax on mutual insurance companies to which part II applies

(a) Imposition of tax

A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall consist of—

(1) Normal tax

A normal tax equal to—

(A) in the case of a taxable year ending after December 31, 1978, 22 percent of the mutual insurance company taxable income, or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser, or

(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1979—

(i) 20 percent of so much of the mutual insurance company taxable income as does not exceed $25,000, plus

(ii) 22 percent of so much of the mutual insurance company taxable income as exceeds $25,000.

or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser; plus

[*See main edition for text of* (2); (b)]

(c) Alternative tax for certain small companies

(1) Imposition of tax

There is hereby imposed for each taxable year on the income of each mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)) computed as follows:

(A) Normal tax

A normal tax equal to—

(i) in the case of a taxable year ending after December 31, 1978, 22 percent of the taxable investment income, or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser, or

(ii) in the case of a taxable year ending after December 31, 1974, and before January 1, 1979, 20 percent of so much of the taxable investment income as does not exceed $25,000, plus 22 percent of so much of the taxable investment income as exceeds $25,000, or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser; plus

(B) Surtax

A surtax on the taxable investment income computed as provided in section 11(c) as though the taxable investment income were the taxable income referred to in section 11(c).

[*See main edition for text of* (2) *and* (3); (d) *to* (f)]

(As amended May 23, 1977, Pub. L. 95-30, title II, § 201(3), (4), 91 Stat. 141.)

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-30, § 201(3), substituted "December 31, 1978" for "December 31, 1977".

Subsec. (a)(1)(B). Pub. L. 95-30, § 201(3), substituted "January 1, 1979" for "January 1, 1978" in the provisions preceding cl. (i).

Subsec. (c)(1)(A)(i). Pub. L. 95-30, § 201(4), substituted "December 31, 1978" for "December 31, 1977".

Subsec. (c)(1)(A)(ii). Pub. L. 95-30, § 201(4), substituted "January 1, 1979" for "January 1, 1978".

Subchapter M—Regulated Investment Companies and Real Estate Investment Trusts

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 11, 46, 50B, 52, 1504 of this title.

PART I—REGULATED INVESTMENT COMPANIES

§ 852. Taxation of regulated investment companies and their shareholders

[*See main edition for text of* (*a*)]

(b) Method of taxation of companies and shareholders

[*See main edition for text of* (*1*) *and* (*2*)]

(3) Capital gains

[*See main edition for text of* (*A*)]

(B) Treatment of capital gain dividends by shareholders

A capital gain dividend shall be treated by the shareholders as a gain from the sale or exchange of a capital asset held for more than 1 year.

[*See main edition for text of* (*C*) *and* (*D*)]

(4) Loss on sale or exchange of stock held less than 31 days

If—

(A) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

(B) such share is held by the taxpayer for less than 31 days.

then any loss on the sale or exchange of such share shall, to the extent of the amount described in subparagraph (A) of this paragraph, be treated as loss from the sale or exchange of a capital asset held for more than 1 year. For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that "30 days" shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

[*See main edition for text of* (*5*); (*c*) *and* (*d*)]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (b)(3)(B), (4). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(o)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (b)(3)(B), (4) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

PART II—REAL ESTATE INVESTMENT TRUSTS

§ 856. Definition of real estate investment trust

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Limitations

A corporation, trust, or association shall not be considered a real estate investment trust for any taxable year unless—

[*See main edition for text of* (*1*) *to* (*3*)]

(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

(A) stock or securities held for less than 1 year;

[*See main edition for text of* (*B*) *and* (*C*), (*5*) *to* (*7*); (*d*) *to* (*g*)]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (c)(4). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (c)(4) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 857. Taxation of real estate investment trusts and their beneficiaries

[*See main edition for text of* (*a*)]

(b) Method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest

[*See main edition for text of* (*1*) *and* (*2*)]

(3) Capital gains

[*See main edition for text of* (*A*)]

(B) Treatment of capital gain dividends by shareholders

A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as a gain from the sale or exchange of a capital asset held for more than 1 year.

[*See main edition for text of* (*C*); (*4*) *to* (*6*)]

(7) Loss on sale or exchange of stock held less than 31 days

If—

(A) under subparagraph (B) of paragraph (3) a shareholder of, or a holder of a beneficial interest in, a real estate investment trust is required, with respect to any share or beneficial interest, to treat any amount as a long-term capital gain, and

(B) such share or interest is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in subparagraph (A) of this paragraph, be treated as loss from the sale or

exchange of a capital asset held for more than 1 year. For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock or beneficial interest has been held for less than 31 days; except that "30 days" shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

[*See main edition for text of* (c) *to* (e)]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (b)(3)(B), (7). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (b)(3)(B), (7) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

Subchapter N—Tax Based on Income From Sources Within or Without the United States

PART I—DETERMINATION OF SOURCES OF INCOME

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 306, 901, 905, 931, 7654 of this title.

§ 861. Income from sources within the United States

[*See main edition for text of* (a)]

(b) Taxable income from sources within United States

From the items of gross income specified in subsection (a) as being income from sources within the United States there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as taxable income from sources within the United States. In the case of an individual who does not itemize deductions, an amount equal to the zero bracket amount shall be considered a deduction which cannot definitely be allocated to some item or class of gross income.

[*See main edition for text of* (c) *to* (e)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(9), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-30 provided that, in the case of an individual who does not itemize deductions, an amount equal to the zero bracket amount shall be considered a deduction which cannot definitely be allocated to some item or class of gross income.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 862. Income from sources without the United States

[*See main edition for text of* (a)]

(b) Taxable income from sources without United States

From the items of gross income specified in subsection (a) there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as taxable income from sources without the United States. In the case of an individual who does not itemize deductions, an amount equal to the zero bracket amount shall be considered a deduction which cannot definitely be allocated to some item or class of gross income.

[*See main edition for text of* (c)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(10), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-30 provided that, in the case of an individual who does not itemize deductions, an amount equal to the zero bracket amount shall be considered a deduction which cannot definitely be allocated to some item or class of gross income.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART II—NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

SUBPART A—NONRESIDENT ALIEN INDIVIDUALS

§ 873. Deductions

[*See main edition for text of* (a) *and* (b)]

(c) Cross reference

For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(11), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-30 struck out par. (1) which made a cross reference to section 142(b)(1) for disallowance of the standard deduction and struck out "(2)" at the beginning of the single remaining cross reference.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART III—INCOME FROM SOURCES WITHOUT THE UNITED STATES

Subpart

[E. Repealed]

AMENDMENTS

1976—Pub. L. 94-455, title X, § 1053(d)(5), Oct. 4, 1976, 90 Stat. 1649, struck out subpart E, effective for taxable years beginning after Dec. 31, 1977.

SUBPART A—FOREIGN TAX CREDIT

§ 904. Limitation on credit

(a) Limitation

The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year. For purposes of the preceding sentence, in the case of an individual the entire taxable income shall be reduced by an amount equal to the zero bracket amount.

[*See main edition for text of (b) to (h)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(11), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30 provided that, for purposes of determining the maximum total amount of the credit taken under section 901(a), in the case of an individual, the entire taxable income shall be reduced by an amount equal to the zero bracket amount.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

* * * * *

Section 1031(c) of Pub. L. 94-455 provided that:

"(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section [amending sections 243(b)(3)(B), 383, 901(a), (b), 904, 907(e)(1), (2), 960(b), 1351(d)(3), 1503(b)(1), 6038(b)(1)(A) and 6501(i) of this title] shall apply to taxable years beginning after December 31, 1975.

* * * * *

SUBPART B—EARNED INCOME OF CITIZENS OF UNITED STATES

§ 911. Earned income from sources without the United States

[*See main edition for text of (a) to (c)*]

(d) Amount excluded under subsection (a) included in computation of tax

(1) Computation of tax

If for any taxable year an individual has earned income which is excluded from gross income under subsection (a), the tax imposed by section 1 or section 1201 shall be the excess of—

(A) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net taxable income, over

(B) the tax imposed by section 1 or section 1201 (whichever is applicable) on the sum of—

(i) the amount of net excluded earned income, and

(ii) the zero bracket amount.

[*See main edition for text of (2); (e) and (f)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(12), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (d)(1)(B). Pub. L. 95-30 substituted "on the sum of (i) the amount of net excluded earned income, and (ii) the zero bracket amount" for "on the amount of net excluded earned income".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1011(d) of Pub. L. 94-455, as amended by Pub. L. 95-30, title III, § 302, May 23, 1977, 91 Stat. 152, provided that: "The amendments made by this section [amending subsecs. (a), (c)(1), (8), (d) to (f) of this section and section 36 of this title] shall apply to taxable years beginning after December 31, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 37, 43, 63, 72, 220, 403, 410, 415, 1302, 1303, 1304, 1348, 1402, 3401, 6012, 6091 of this title; title 29 section 1322; title 42 section 411.

SUBPART D—POSSESSIONS OF THE UNITED STATES

§ 931. Income from sources within possessions of the United States

[*See main edition for text of (a) to (c)*]

(d) Deductions

[*See main edition for text of (1) and (2)*]

[(3) Repealed. Pub. L. 95-30, title I, § 101(d)(12), May 23, 1977, 91 Stat. 134]

[*See main edition for text of (e) to (h)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(12), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (d)(3). Pub. L. 95-30 struck out subsec. (d)(3) which made a cross reference to section 142(b)(2) for disallowance of the standard deduction.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43, 48, 63, 153, 901, 957, 1302, 1402, 1504, 6012, 6091 of this title; title 42 section 411; title 48 section 1421i.

[SUBPART E—REPEALED]

[§§ 941 to 943. Repealed. Pub. L. 94-455, title X, § 1053(c), Oct. 4, 1976, 90 Stat. 1648]

Section 941, acts Aug. 16, 1954, ch. 736, 68A Stat. 293; Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(a), title XIX, § 1906(b)(1)(A), 90 Stat. 1648, 1834, set forth pro-

visions authorizing the special deduction for China Trade Act corporations.

Section 942, act Aug. 16, 1954, ch. 736, 68A Stat. 294, disallowed the foreign tax credit authorized by section 901 to any corporation organized under the China Trade Act.

Section 943, acts Aug. 16, 1954, ch. 736, 68A Stat. 294; Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(b), 90 Stat. 1648, set forth provisions relating to exclusion from gross income of residents of Formosa or Hong Kong of amounts distributed as dividends by China Trade Act corporations.

EFFECTIVE DATE OF REPEAL

Sections repealed effective with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 116 of this title.

PART IV—DOMESTIC INTERNATIONAL SALES CORPORATIONS

SUBPART A—TREATMENT OF QUALIFYING CORPORATIONS

§ 992. Requirements of a Domestic International Sales Corporation

REFERENCES IN TEXT

Section 941, referred to in subsec. (d)(6), was repealed by Pub. L. 94-455, title X, § 1053(c), Oct. 4, 1976, 90 Stat. 1648.

Subchapter O—Gain or Loss on Disposition of Property

PART III—COMMON NONTAXABLE EXCHANGES

§ 1034. Sale or exchange of residence

[*See main edition for text of* (*a*)]

(b) Adjusted sales price defined

(1) In general

For purposes of this section, the term "adjusted sales price" means the amount realized, reduced by the aggregate of the expenses for work performed on the old residence in order to assist in its sale.

(2) Limitations

The reduction provided in paragraph (1) applies only to expenses—

(A) for work performed during the 90-day period ending on the day on which the contract to sell the old residence is entered into;

(B) which are paid on or before the 30th day after the date of the sale of the old residence; and

(C) which are—

(i) not allowable as deductions in computing taxable income under section 63 (defining taxable income), and

(ii) not taken into account in computing the amount realized from the sale of the old residence.

[*See main edition for text of* (*c*) *to* (*k*)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(13), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (b)(2)(C)(i). Pub. L. 95-30 substituted "section 63" for "section 63(a)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART VIII—DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT

Sec.
1101. Distributions pursuant to Bank Holding Company Act.

AMENDMENTS

1976—Pub. L. 94-452, § 2(a), Oct. 2, 1976, 90 Stat. 1503, struck out in part heading "OF 1956" following "BANK HOLDING COMPANY ACT" and in item 1101 "of 1956" following "Bank Holding Company Act".

§ 1101. Distributions pursuant to Bank Holding Company Act

(a) Distributions of certain non-banking property

(1) Distributions of prohibited property

If—

(A) a qualified bank holding corporation distributes prohibited property (other than stock received in an exchange to which subsection (c)(2) applies)—

(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

(ii) to a shareholder, in exchange for its preferred stock, or

(iii) to a security holder, in exchange for its securities, and

(B) the Board has, before the distribution, certified that the distribution of such prohibited property is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

(2) Distributions of stock and securities received in an exchange to which subsection (c)(2) applies

If—

(A) a qualified bank holding corporation distributes—

(i) common stock received in an exchange to which subsection (c)(2) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

(ii) common stock received in an exchange to which subsection (c)(2) applies to a shareholder, in exchange for its common stock, or

(iii) preferred stock or common stock received in an exchange to which subsection (c)(2) applies to a shareholder, in exchange for its preferred stock, or

(iv) securities or preferred or common stock received in an exchange to which

subsection (c)(2) applies to a security holder, in exchange for its securities, and

(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

(3) Pro rata and other requirements

(A) In general

Paragraphs (1) and (2) of this subsection, or paragraphs (1) and (2) of subsection (b), as the case may be, shall apply to any distribution to the shareholders of a qualified bank holding corporation only if each distribution—

(i) which is made by such corporation to its shareholders after July 7, 1970, and on or before the date on which the Board makes its final certification under subsection (e), and

(ii) to which such paragraph (1) or (2) applies (determined without regard to this paragraph),

meets the requirements of subparagraph (B), (C), or (D).

(B) Pro rata requirements

A distribution meets the requirements of this subparagraph if the distribution is pro rata with respect to all shareholders of the distributing qualified bank holding corporation or with respect to all shareholders of common stock of such corporation.

(C) Redemptions when uniform offer is made

A distribution meets the requirements of this subparagraph if the distribution is in exchange for stock of the distributing qualified bank holding corporation and such distribution is pursuant to a good faith offer made on a uniform basis to all shareholders of the distributing qualified bank holding corporation or to all shareholders of common stock of such corporation.

(D) Non-pro rata distributions from certain closely-held corporations

A distribution meets the requirements of this subparagraph if such distribution is made by a qualified bank holding corporation which does not have more than 10 shareholders (within the meaning of section 1371(a)(1)) and does not have as a shareholder a person (other than an estate) which is not an individual, and if the Board (after consultation with the Secretary) certifies that—

(i) a distribution which meets the requirements of subparagraph (B) or (C) is not appropriate to effectuate section 4 or the policies of the Bank Holding Company Act, and

(ii) the distribution being made is necessary or appropriate to effectuate section 4 of the policies of such Act.

(4) Exception

This subsection shall not apply to any distribution by a corporation if such corporation, a corporation having control of such corporation, or a subsidiary of such corporation has made any distribution pursuant to subsection (b) or has made an election under section 6158 with respect to bank property (as defined in section 6158(f)(3)).

(5) Distributions involving gift or compensation

In the case of a distribution to which paragraph (1) or (2) applies but which—

(A) results in a gift, see section 2501 and following, or

(B) has the effect of the payment of compensation, see section 61.

(b) Corporation ceasing to be a bank holding company

(1) Distributions of property which cause a corporation to be a bank holding company

If—

(A) a qualified bank holding corporation distributes property (other than stock received in an exchange to which subsection (c)(3) applies)—

(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

(ii) to a shareholder, in exchange for its preferred stock, or

(iii) to a security holder, in exchange for its securities, and

(B) the Board has, before the distribution, certified that—

(i) such property is all or part of the property by reason of which such corporation controls (within the meaning of section 2(a) of the Bank Holding Company Act) a bank or bank holding company, or such property is part of the property by reason of which such corporation did control a bank or a bank holding company before any property of the same kind was distributed under this subsection or exchanged under subsection (c)(3), and

(ii) the distribution is necessary or appropriate to effectuate the policies of such Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

(2) Distributions of stock and securities received in an exchange to which subsection (c)(3) applies

If—

(A) a qualified bank holding corporation distributes—

(i) common stock received in an exchange to which subsection (c)(3) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

(ii) common stock received in an exchange to which subsection (c)(3) applies to a shareholder in exchange for its common stock, or

(iii) preferred stock or common stock received in an exchange to which subsection (c)(3) applies to a shareholder, in exchange for its preferred stock, or

(iv) securities or preferred or common stock received in an exchange to which subsection (c)(3) applies to a security holder, in exchange for its securities, and

(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

(3) Pro rata and other requirements

For pro rata and other requirements, see subsection (a)(3).

(4) Exception

This subsection shall not apply to any distribution by a corporation if such corporation, a corporation having control of such corporation, or a subsidiary of such corporation has made any distribution pursuant to subsection (a) or has made an election under section 6158 with respect to prohibited property.

(5) Distributions involving gift or compensation

In the case of a distribution to which paragraph (1) or (2) applies but which—

(A) results in a gift, see section 2501 and following, or

(B) has the effect of the payment of compensation, see section 61.

(c) Property acquired after July 7, 1970

(1) In general

Except as provided in paragraphs (2) and (3), subsection (a) or (b) shall not apply to—

(A) any property acquired by the distributing corporation after July 7, 1970, unless (i) gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b), or (ii) such property was received by it in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) such property was acquired by the distributing corporation in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 or 356 (but only with respect to property permitted by section 354 or 356 to be received without the recognition of gain or loss) with respect to a reorganization described in section 368(a)(1)(A), (B), (E), or (F), or

(B) any property which was acquired by the distributing corporation in a distribution with respect to stock acquired by such corporation after July 7, 1970, unless such stock was acquired by such corporation (i) in a distribution (with respect to stock held by it on July 7, 1970, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b), or (ii) in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 or 356 (but only with respect to property permitted by section 354 or 356 to be received without the recognition of gain or loss) with respect to a reorganization described in section 368(a)(1)(A), (B), (E), or (F), or

(C) any property acquired by the distributing corporation in a transaction in which gain was not recognized under section 332, unless such property was acquired from a corporation which, if it had been a qualified bank holding corporation, could have distributed such property under subsection (a)(1) or (b)(1), or

(D) any property acquired by the distributing corporation in a transaction in which gain was not recognized under section 354 or 356 with respect to a reorganization described in section 368(a)(1)(A) or (B), unless such property was acquired by the distributing corporation in exchange for property which the distributing corporation could have distributed under subsection (a)(1) or (b)(1).

(2) Exchanges involving prohibited property

If—

(A) any qualified bank holding corporation exchanges (i) property, which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except property described in subsection (b)(1)(B)(i)), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property,

(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (a)(2)(A), and

(C) before such distribution, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that the exchange and distribution are necessary or appropriate to effectuate section 4 of the Bank Holding Company Act,

then paragraph (1) shall not apply with respect to such distribution.

(3) Exchanges involving interests in banks

If—

(A) any qualified bank holding corporation exchanges (i) property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except prohibited property), for (ii) all of the stock of a

second corporation created and availed of solely for the purpose of receiving such property.[1]

(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (b)(2)(A), and

(C) before such distribution, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that—

(i) such property is all or part of the property by reason of which such corporation controls (within the meaning of section 2(a) of the Bank Holding Company Act) a bank or bank holding company, or such property is part of the property by reason of which such corporation did control a bank or a bank holding company before any property of the same kind was distributed under subsection (b)(1) or exchanged under this paragraph, and

(ii) the exchange and distribution are necessary or appropriate to effectuate the policies of such Act,

then paragraph (1) shall not apply with respect to such distribution.

(d) Distributions to avoid Federal income tax

(1) Prohibited property

Subsection (a) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after July 7, 1970, to any corporation, property (other than prohibited property) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

(2) Banking property

Subsection (b) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after July 7, 1970 to any corporation, property (other than property described in subsection (b)(1)(B)(i)) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

(e) Final certification

(1) For subsection (a)

Subsection (a) shall not apply with respect to any distribution by a corporation unless the Board certifies, before the close of the calendar year following the calendar year in which the last distribution occurred, that the corporation has (before the expiration of the period prohibited property is permitted under the Bank Holding Company Act to be held by a bank holding company) disposed of all of the property the disposition of which is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act.

[1] So in original. Period probably should be a comma.

(2) For subsection (b)

Subsection (b) shall not apply with respect to any distribution by a corporation unless the Board certifies, before the close of the calendar year following the calendar year in which the last distribution occurred, that the corporation has (before the expiration of the period prohibited property is permitted under the Bank Holding Company Act to be held by a bank holding company) ceased to be a bank holding company.

(f) Certain exchanges of securities

In the case of an exchange described in subsection (a)(2)(A)(iv) or subsection (b)(2)(A)(iv), subsection (a) or subsection (b) (as the case may be) shall apply only to the extent that the principal amount of the securities received does not exceed the principal amount of the securities exchanged.

(Added May 9, 1956, ch. 240, § 10(a), 70 Stat. 139, and amended Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1503; Oct. 4, 1976, Pub. L. 94-455, title XIX, 1906(b)(13)(A), 90 Stat. 1834.)

REFERENCES IN TEXT

Such Act and the Bank Holding Company Act, referred to in catchline subsecs. (b)(1)(B)(ii), (c)(3)(C)(ii), and (e), are defined in section 1103 of this title to mean the Bank Holding Company Act of 1956, as amended through Dec. 31, 1970, act May 9, 1956, ch. 240, 70 Stat. 133, as amended which is classified principally to chapter 17 (§ 1841 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of Title 12 and Tables.

Section 4 of the Bank Holding Company Act, referred to in subsecs. (a)(1)(B), (a)(3)(D)(i), (ii), (c)(2)(C), and (e)(1), is section 4 of the Bank Holding Company Act of 1956, as amended through Dec. 31, 1970, which is classified to section 1843 of Title 12, Banks and Banking.

Section 2(a) of the Bank Holding Company Act, referred to in subsecs. (b)(1)(B)(i) and (c)(3)(C)(i), is section 2(a) of the Bank Holding Company Act of 1956, as amended through Dec. 31, 1970, which is classified to section 1841(a) of Title 12, Banks and Banking.

AMENDMENTS

1976—Pub. L. 94-452 struck out in section catchline "of 1956" following "Bank Holding Company Act".

Subsec. (a)(1)(B). Pub. L. 94-452 struck out "of 1956" following "Bank Holding Company Act".

Subsec. (a)(3). Pub. L. 94-452 added subsec. (a)(3) and struck out former subsec. (a)(3) which provided that paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified bank holding corporation.

Subsec. (a)(3)(D). Pub. L. 94-455 struck out "or his delegate" following "Secretary".

Subsec. (a)(4). Pub. L. 94-452 substituted reference to corporation, corporation having control of such corporation, or a subsidiary of such corporation for reference to corporation and added provision excepting distributing corporation which makes an election under section 6158 with respect to bank property.

Subsec. (a)(5)(B). Pub. L. 94-452 substituted "section 61" for "section 61(a)(1)".

Subsec. (b)(1)(B)(i). Pub. L. 94-452 struck out "of 1956" following "Bank Holding Company Act".

Subsec. (b)(3). Pub. L. 94-452 added subsec. (b)(3) and struck out former subsec. (b)(3) which provided that paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with

respect to all of the shareholders of the distributing qualified bank holding corporation.

Subsec. (b)(4). Pub. L. 94-452 substituted reference to corporation, corporation having control of such corporation, or a subsidiary of such corporation for reference to corporation and added provision excepting distributing corporation which makes an election under section 6158 with respect to bank property.

Subsec. (b)(5)(B). Pub. L. 94-452 substituted "section 61" for "section 61(a)(1)".

Subsec. (c). Pub. L. 94-452 substituted in subsection catchline and in pars. (1)(A) and (1)(B) "July 7, 1970" for "May 15, 1955", in pars. (1)(A) and (1)(B) "section 368(a)(1)(A), (B), (E), or (F)" for "section 368(a)(1)(E) or (F)", and in pars. (2)(C) and (3)(C) "distribution" for "exchange", added in pars. (1)(A) and (1)(B) reference to section 356 (but only with respect to property permitted by section 354 or 356 to be received without the recognition of gain or loss), struck out in pars. (2)(C) and (3)(C)(i) "of 1956" following "Bank Holding Company Act", and added par. (1)(D).

Subsecs. (d)(1), (2). Pub. L. 94-452 substituted in subsecs. (d)(1) and (2) "July 7, 1970" for "May 15, 1955".

Subsec. (d)(3). Pub. L. 94-452 struck out subsec. (d)(3) which related to the applicability of subsecs. (a) and (b) to portion of transfer which was a contribution to the capital of a corporation made after May 15, 1955 and prior to May 9, 1956.

Subsec. (e)(1). Pub. L. 94-452 inserted "before the close of the calendar year following the calendar year in which the distribution occurred" following "the Board certifies", substituted "prohibited property is permitted under the Bank Holding Company Act to be held by a bank holding company" for "permitted under section 4(a) of the Bank Holding Company Act of 1956 including any extensions thereof granted to such corporation under such section 4(a)", and struck out reference to would have been so necessary or appropriate if the corporation had continued to be a bank holding company.

Subsec. (e)(2). Pub. L. 94-452 incorporated in subsec. (e)(2) provisions of former subpar. (A) adding "before the close of the calendar year following the calendar year in which the last distribution occurred" following "the Board certifies," and substituting "prohibited property is permitted under the Bank Holding Company Act to be held by a bank holding company" for "specified in subparagraph (B)," and struck out provisions of former subpar. (B) relating to the period of time referred to in former subpar. (A) which expires 2 years after May 9, 1956, or 2 years after date on which corporation becomes a holding company whichever is later and the authority of the Board to extend such period.

Subsec. (f). Pub. L. 94-452 reenacted subsec. without change.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2(d)(1) of Pub. L. 94-452 provided that the amendment by section 2(a) of Pub. L. 94-452 would be effective on Oct. 1, 1977, with respect to distributions after July 7, 1970, in taxable years ending after July 7, 1970.

§ 1102. Special rules

(a) Basis of property acquired in distributions

If, by reason of section 1101, gain is not recognized with respect to the receipt of any property, then, under regulations prescribed by the Secretary—

(1) if the property is received by a shareholder with respect to stock without the surrender by such shareholder of stock, the basis of the property received and of the stock with respect to which it is distributed shall, in the distributee's hands, be determined by allocating between such property and such stock the adjusted basis of such stock, or

(2) if the property is received by a shareholder in exchange for stock or by a security holder in exchange for securities, the basis of the property received shall, in the distributee's hands, be the same as the adjusted basis of the stock or securities exchanged, increased by the amount of gain to the taxpayer recognized on the property received.

(b) Periods of limitation

The periods of limitation provided in section 6501 (relating to limitations on assessment and collection) shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of property by shareholders in a distribution which is certified by the Board under subsection (a), (b), or (c) of section 1101, until 5 years after the distributing corporation notifies the Secretary (in such manner and with such accompanying information as the Secretary may by regulations prescribe)—

(1) that the final certification required by subsection (e) of section 1101 has been made, or

(2) that such final certification will not be made;

and such assessment may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment.

(c) Allocation of earnings and profits

(1) Distribution of stock in a controlled corporation

In the case of a distribution by a qualified bank holding corporation under section 1101(a)(1) or (b)(1) of stock in a controlled corporation, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation shall be made under regulations prescribed by the Secretary.

(2) Exchanges described in section 1101(c)(2) or (3)

In the case of any exchange described in section 1101(c)(2) or (3), proper allocation with respect to the earnings and profits of the corporation transferring the property and the corporation receiving such property shall be made under regulations prescribed by the Secretary.

(3) Definition of controlled corporation

For purposes of paragraph (1), the term "controlled corporation" means a corporation with respect to which at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock is owned by the distributing qualified bank holding corporation.

(d) Itemization of property

In any certification under this part, the Board shall make such specification and itemization of property as may be necessary to carry out the provisions of this part.

(Added May 9, 1956, ch. 240, § 10(a), 70 Stat. 143, and amended Dec. 27, 1967, Pub. L. 90-225,

§ 1, 81 Stat. 730; Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1508; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 struck out "or his delegate" following "Secretary".

Pub. L. 94-452, in par. (2), restructured existing provisions dropping subparagraph designations and eliminating provisions of former subpar. (A) relating to the amount of the property received which was treated as a dividend.

Subsec. (b). Pub. L. 94-455 struck out "or his delegate" following "Secretary" wherever appearing.

Pub. L. 94-452 eliminated reference to the period (including extensions thereof) prescribed in section 4(a) of the Bank Holding Company Act of 1956, or section 1101(e)(2)(B), whichever is applicable, has expired and added pars. (1) and (2).

Subsec. (c). Pub. L. 94-455 struck out "or his delegate" following "Secretary" wherever appearing.

Pub. L. 94-452 reenacted subsec. (c) without change.

Subsec. (d). Pub. L. 94-452 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 94-452 struck out subsec. (e) relating to the applicability of this part with respect to any company which became a bank holding company as a result of Pub. L. 89-485.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2(d)(1) of Pub. L. 94-452 provided that the amendment by section 2(a) of Pub. L. 94-452 would be effective on Oct. 1, 1977, with respect to distributions after July 7, 1970, in taxable years ending after July 7, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103 of this title.

§ 1103. Definitions

(a) Bank holding company; Bank Holding Company Act

For purposes of this part—

(1) Bank holding company

The term "bank holding company" means—

(A) a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act, or

(B) a bank holding company subsidiary within the meaning of section 2(d) of such Act.

(2) Bank Holding Company Act

The term "Bank Holding Company Act" means the Bank Holding Company Act of 1956, as amended through December 31, 1970 (12 U.S.C. 1841 et seq.).

(b) Qualified bank holding corporation

(1) In general

Except as provided in paragraph (2), for purposes of this part the term "qualified bank holding corporation" means any corporation (as defined in section 7701(a)(3)) which is a bank holding company and which holds prohibited property acquired by it—

(A) on or before July 7, 1970,

(B) in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, or

(C) in exchange for all of its stock in an exchange described in section 1101(c)(2) or (c)(3).

(2) Limitations

(A) A bank holding company shall not be a qualified bank holding corporation, unless it would have been a bank holding company on July 7, 1970, if the Bank Holding Company Act Amendments of 1970 had been in effect on such date, or unless it is a bank holding company determined solely by reference to—

(i) property acquired by it on or before July 7, 1970,

(ii) property acquired by it in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, or

(iii) property acquired by it in exchange for all of its stock in an exchange described in section 1101(c)(2) or (3).

For purposes of this subparagraph, property held by a corporation having control of the corporation or by a subsidiary of the corporation shall be treated as held by the corporation.

(B) A bank holding company shall not be a qualified bank holding corporation by reason of property described in subparagraph (B) of paragraph (1) or clause (ii) of subparagraph (A) of this paragraph, unless such property was acquired in a distribution with respect to stock, which stock was acquired by such bank holding company—

(i) on or before July 7, 1970,

(ii) in a distribution (with respect to stock held by it on July 7, 1970, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1101, or

(iii) in exchange for all of its stock in an exchange described in section 1101(c)(2) or (3).

(C) A corporation shall be treated as a qualified bank holding corporation only if the Board certifies that it satisfies the foregoing requirements of this subsection.

(3) Certain successor corporations

For purposes of this subsection, a successor corporation in a reorganization described in section 368(a)(1)(F) shall succeed to the status of its predecessor corporation as a qualified bank holding corporation.

(c) Prohibited property

For purposes of this part, the term "prohibited property" means, in the case of any bank holding company, property (other than nonexempt property) the disposition of which would be necessary or appropriate to effectuate section 4 of the Bank Holding Company Act if such company continued to be a bank holding company beyond the period (including any extensions thereof) specified in subsection (a) of such section. The term "prohibited property" also includes shares of any company not in

excess of 5 percent of the outstanding voting shares of such company if the prohibitions of section 4 of such Act apply to the shares of such company in excess of such 5 percent.

(d) Nonexempt property

For purposes of this part, the term "nonexempt property" means—

(1) obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace,

(2) securities issued by or guaranteed as to principal or interest by a government or subdivision thereof or by any instrumentality of a government or subdivision, or

(3) money, and the right to receive money not evidenced by a security or obligation (other than a security or obligation described in paragraph (1) or (2)).

(e) Board

For purposes of this part, the term "Board" means the Board of Governors of the Federal Reserve System.

(f) Control; subsidiary

For purposes of this part—

(1) Control

Except as provided in section 1102(c)(3), a corporation shall be treated as having control of another corporation if such corporation has control (within the meaning of section 2(a)(2) of the Bank Holding Company Act) of such other corporation.

(2) Subsidiary

The term "subsidiary" has the meaning given to such term by section 2(d) of the Bank Holding Company Act.

(g) Election to forego grandfather provision for all property representing pre-June 30, 1968, activities

Any bank holding company may elect, for purposes of this part and section 6158, to have the determination of whether property is property described in subsection (c) or is property eligible to be distributed without recognition of gain under section 1101(b)(1) made under the Bank Holding Company Act as if such Act did not contain the proviso of section 4(a)(2) thereof. Any election under this subsection shall apply to all property described in such proviso and shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election, once made, shall be irrevocable. An election under this subsection or subsection (h) shall not apply unless the final certification referred to in section 1101(e) or section 6158(c)(2), as the case may be, includes a certification by the Board that the bank holding company has disposed of either all banking property or all nonbanking property.

(h) Election to divest all banking or nonbanking property in case of certain closely held bank holding companies

Any bank holding company may elect, for purposes of this part and section 6158, to have the determination of whether property is property described in subsection (c) or is property eligible to be distributed without recognition of gain under section 1101(b)(1) made under the Bank Holding Company Act as if such Act did not contain clause (ii) of section 4(c) of such Act. Any election under this subsection shall apply to all property described in subsection (c), or to all property eligible to be distributed without recognition of gain under section 1101(b)(1), as the case may be, and shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election, once made, shall be irrevocable.

(Added May 9, 1956, ch. 240, § 10(a), 70 Stat. 144, and amended Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1509; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834.)

REFERENCES IN TEXT

The Bank Holding Company Act, referred to in subsecs. (a), (g), and (h), is the Bank Holding Company Act of 1956, as amended through Dec. 31, 1970, act May 9, 1956, ch. 240, 70 Stat. 133, as amended, which is classified principally to chapter 17 (§ 1841 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of Title 12 and Tables.

Section 2 of the Bank Holding Company Act, referred to in subsecs. (a)(1) and (f), is section 2 of the Bank Holding Company Act of 1956, as amended through Dec. 31, 1970, which is classified to section 1841 of Title 12, Banks and Banking.

The Bank Holding Company Act Amendments of 1970, referred to in subsec. (b)(2)(A), is Pub. L. 91-607, Dec. 31, 1970, 84 Stat. 1760. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1841 of Title 12, Banks and Banking, and Tables.

Section 4 of the Bank Holding Company Act, referred to in subsecs. (c), (g), and (h), is section 4 of the Bank Holding Company Act of 1956, as amended through Dec. 31, 1970, which is classified to section 1843 of Title 12, Banks and Banking.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-452 incorporated existing provisions in par. (1)(A) substituting "section 2(a)" for "section 2" and deleting "of 1956" following "Bank Holding Company Act" and added pars. (1)(B) and (2).

Subsec. (b). Pub. L. 94-452 substituted "July 7, 1970" for "May 15, 1955" wherever appearing, struck out "of 1956" following "Bank Holding Company Act" wherever appearing, added in par. (2)(A) provision that for purpose of this subparagraph, property held by a corporation having control of the corporation or by a subsidiary of the corporation shall be treated as held by the corporation, and added par. (3).

Subsec. (c). Pub. L. 94-452 struck out "of 1956" following "Bank Holding Company Act" and "or in section 1101(e)(2)(B) of this part, as the case may be" following "subsection (a) of such section" and substituted provisions defining prohibited property to also include shares of any company not in excess of 5% of the outstanding shares of such company if prohibition of section 4 of Bank Holding Company Act apply to shares of such company in excess of such 5% for provisions defining prohibited property to not include shares of any company held by a bank holding company to the extent that the prohibitions of section 4 of the Bank Holding Company Act do not apply to the ownership by such bank holding company of such property by reason of subsec. (c)(5) of such section.

Subsecs. (d), (e). Pub. L. 94-452 reenacted subsecs. without change.

Subsec. (f). Pub. L. 94-452 added subsec. (f).

Subsec. (g). Pub. L. 94-455 struck out "or his delegate" following "Secretary".

Pub. L. 94-452 added subsec. (g).

Subsec. (h). Pub. L. 94-455 struck out "or his delegate" following "Secretary".

Pub. L. 94-452 added subsec. (h).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2(d)(1) of Pub. L. 94-452 provided that the amendment by section 2(a) of Pub. L. 94-452 would be effective on Oct. 1, 1977, with respect to distributions after July 7, 1970, in taxable years ending after July 7, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6158 of this title.

Subchapter P—Capital Gains and Losses

PART I—TREATMENT OF CAPITAL GAINS

§ 1201. Alternative tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 5, 12, 57, 527, 594, 802, 821, 852, 871, 877, 882, 911, 1304, 1378, 1381, 6154, 6425, 6655 of this title.

PART II—TREATMENT OF CAPITAL LOSSES

§ 1211. Limitation on capital losses

[See main edition for text of (a)]

(b) Other taxpayers

(1) In general

In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) whichever of the following is smallest:

(A) the taxable income for the taxable year reduced (but not below zero) by the zero bracket amount,

(B) the applicable amount, or

(C) the sum of—

(i) the excess of the net short-term capital loss over the net long-term capital gain, and

(ii) one-half of the excess of the net long-term capital loss over the net short-term capital gain.

[See main edition for text of (2) and (3)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(14), 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (b)(1)(A). Pub. L. 95-30 inserted "reduced (but not below zero) by the zero bracket amount" following "taxable year".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART III—GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

§ 1222. Other terms relating to capital gains and losses

For purposes of this subtitle—

(1) Short-term capital gain

The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent such gain is taken into account in computing gross income.

(2) Short-term capital loss

The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent that such loss is taken into account in computing taxable income.

(3) Long-term capital gain

The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 1 year, if and to the extent such gain is taken into account in computing gross income.

(4) Long-term capital loss

The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for more than 1 year, if and to the extent that such loss is taken into account in computing taxable income.

[See main edition for text of (5) to (11) and closing paragraph]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(a)(2), 90 Stat. 1731.)

AMENDMENTS

1976—Pars. (1) to (4). Pub. L. 94-455, § 1402(a)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(a)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in pars. (1) to (4) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1223. Holding period of property

For purpose of this subtitle—

[See main edition for text of (1) to (10)]

(11) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

(A) the basis of such property in the hands of such person is determined under section 1014, and

(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death,

then such person shall be considered to have held such property for more than 1 year.

[*See main edition for text of (12)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Par. (11). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in par. (11) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

PART IV—SPECIAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

§ 1231. Property used in the trade or business and involuntary conversions

(a) General rule

If, during the taxable year, the recognized gains on sales or exchanges of property used in the trade or business, plus the recognized gains from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business and capital assets held for more than 1 year into other property or money, exceed the recognized losses from such sales, exchanges, and conversions, such gains and losses shall be considered as gains and losses from sales or exchanges of capital assets held for more than 1 year. If such gains do not exceed such losses, such gains and losses shall not be considered as gains and losses from sales or exchanges of capital assets. For purposes of this subsection—

[*See main edition for text of (1)*]

(2) losses (including losses not compensated for by insurance or otherwise) upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of (A) property used in the trade or business or (B) capital assets held for more than 1 year shall be considered losses from a compulsory or involuntary conversion.

In the case of any involuntary conversion (subject to the provisions of this subsection but for this sentence) arising from fire, storm, shipwreck, or other casualty, or from theft, of any property used in the trade or business or of any capital asset held for more than 1 year, this subsection shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions.

(b) Definition of property used in the trade or business

For purposes of this section—

(1) General rule

The term "property used in the trade or business" means property used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than 1 year, and real property used in the trade or business, held for more than 1 year, which is not—

(A) property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year,

(B) property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or

(C) a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by a taxpayer described in paragraph (3) of section 1221.

[*See main edition for text of (2) and (3)*]

(4) Unharvested crop

In the case of an unharvested crop on land used in the trade or business and held for more than 1 year, if the crop and the land are sold or exchanged (or compulsorily or involuntarily converted) at the same time and to the same person, the crop shall be considered as "property used in the trade or business."

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsecs. (a), (b)(1), (4). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsecs. (a), (b)(1), (4) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1232. Bonds and other evidences of indebtedness

(a) General rule

For purposes of this subtitle, in the case of bonds, debentures, notes, or certificates or other evidences of indebtedness, which are capital assets in the hands of the taxpayer, and which are issued by any corporation, or by any government or political subdivision thereof—

[*See main edition for text of (1)*]

(2) Sale or exchange

(A) Corporate bonds issued after May 27, 1969

Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a corporation after May 27, 1969, held by the taxpayer more than 1 year, any gain realized shall (except as provided in the following sentence) be considered gain from the sale or exchange of a capital asset held for more than 1 year. If at the time of original issue there was an intention to call the bond or other evidence of indebtedness before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to the original issue discount (as defined in subsection (b)) reduced by the portion of original issue discount previously includible in the gross income of any

holder (as provided in paragraph (3)(B)) shall be considered as ordinary income.

(B) Corporate bonds issued on or before May 27, 1969, and government bonds

Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a government or political subdivision thereof after December 31, 1954, or by a corporation after December 31, 1954, and on or before May 27, 1969, held by the taxpayer more than 1 year, any gain realized which does not exceed—

(i) an amount equal to the original issue discount (as defined in subsection (b)), or

(ii) if at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, an amount which bears the same ratio to the original issue discount (as defined in subsection (b)) as the number of complete months that the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity.

shall be considered as ordinary income. Gain in excess of such amount shall be considered ordinary income held more than 1 year.

[*See main edition for text of (C) and (D), (3); (b) to (d)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(2)(A), (B). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a)(2)(A), (B) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1233. Gains and losses from short sales

[*See main edition for text of (a)*]

(b) Short-term gains and holding periods

If gain or loss from a short sale is considered as gain or loss from the sale or exchange of a capital asset under subsection (a) and if on the date of such short sale substantially identical property has been held by the taxpayer for not more than 1 year (determined without regard to the effect, under paragraph (2) of this subsection, of such short sale on the holding period), or if substantially identical property is acquired by the taxpayer after such short sale and on or before the date of the closing thereof—

(1) any gain on the closing of such short sale shall be considered as a gain on the sale or exchange of a capital asset held for not more than 1 year (notwithstanding the period of time any property used to close such short sale has been held); and

[*See main edition for text of (2)*]

For purposes of this subsection, the acquisition of an option to sell property at a fixed price shall be considered as a short sale, and the exercise or failure to exercise such option shall be considered as a closing of such short sale.

[*See main edition for text of (c)*]

(d) Long-term losses

If on the date of such short sale substantially identical property has been held by the taxpayer for more than 1 year, any loss on the closing of such short sale shall be considered as a loss on the sale or exchange of a capital asset held for more than 1 year (notwithstanding the period of time any property used to close such short sale has been held, and notwithstanding section 1234).

(e) Rules for application of section

[*See main edition for text of (1) to (3)*]

(4)(A) In the case of a taxpayer who is a dealer in securities (within the meaning of section 1236)—

(i) if, on the date of a short sale of stock, substantially identical property which is a capital asset in the hands of the taxpayer has been held for not more than 1 year, and

(ii) if such short sale is closed more than 20 days after the date on which it was made,

subsection (b)(2) shall apply in respect of the holding period of such substantially identical property.

[*See main edition for text of (B); (f) and (g)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsecs. (b), (d), (e)(4)(i). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsecs. (b), (d), (e)(4)(i) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1234. Options to buy or sell

[*See main edition for text of (a)*]

(b) Treatment of grantor of option in the case of stock, securities, or commodities

(1) General rule

In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 1 year.

[*See main edition for text of (2) and (3)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (b)(1) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1235. Sale or exchange of patents

(a) General

A transfer (other than by gift, inheritance, or devise) of property consisting of all substantial rights to a patent, or an undivided interest therein which includes a part of all such rights, by any holder shall be considered the sale or exchange of a capital asset held for more than 1 year, regardless of whether or not payments in consideration of such transfer are—

(1) payable periodically over a period generally coterminous with the transferee's use of the patent, or

(2) contingent on the productivity, use, or disposition of the property transferred.

[*See main edition for text of (b) to (e)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a) and that such substitution would be effective for taxable years after beginning after Dec. 31, 1977.

§ 1246. Gain on foreign investment company stock

(a) Treatment of gain as ordinary income

[*See main edition for text of (1) to (3)*]

(4) Holding period of stock must be more than 1 year

This section shall not apply with respect to the sale or exchange of stock where the holding period of such stock as of the date of such sale or exchange is 1 year or less.

[*See main edition for text of (b) to (f)*]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (a)(4). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (a)(4) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1247. Election by foreign investment companies to distribute income currently

[*See main edition for text of (a) to (h)*]

(i) Loss on sale or exchange of certain stock held less than 1 year

If—

(1) under this section, any qualified shareholder treats any amount designated under subsection (a)(1)(B) with respect to a share of stock as long-term capital gain, and

(2) such share is held by the taxpayer for less than 1 year,

then any loss on the sale or exchange of such share shall, to the extent of the amount described in paragraph (1), be treated as loss from the sale or exchange of a capital asset held for more than 1 year.

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (i). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (i) and that such substitution would be effective for taxable years beginning after Dec. 31, 1977.

§ 1248. Gain from certain sales or exchanges of stock in certain foreign corporations

[*See main edition for text of (a)*]

(b) Limitation on tax applicable to individuals

In the case of an individual, if the stock sold or exchanged is a capital asset (within the meaning of section 1221) and has been held for more than 1 year, the tax attributable to an amount included in gross income as a dividend under subsection (a) shall not be greater than a tax equal to the sum of—

[*See main edition for text of (1)*]

(2) an amount equal to the tax that would result by including in gross income, as gain from the sale or exchange of a capital asset held for more than 1 year, an amount equal to the excess of (A) the amount included in gross income as a dividend under subsection (a), over (B) the amount determined under paragraph (1).

[*See main edition for text of (c) to (f)*]

(g) Exceptions

This section shall not apply to—

[*See main edition for text of (1) and (2)*]

(3) any amount to the extent that such amount is, under any other provision of this title, treated as—

(A) a dividend (other than an amount treated as a dividend under subsection (f)),

(B) ordinary income, or

(C) gain from the sale of an asset held for not more than 1 year.

[*See main edition for text of (h)*]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsecs. (b), (g)(3)(C). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsecs. (b), (g)(3)(C) and that such substitution would be effective for taxable years after beginning after Dec. 31, 1977.

§ 1251. Gain from disposition of property used in farming where farm losses offset nonfarm income

[*See main edition for text of (a) to (d)*]

(e) Definitions

For purposes of this section—

(1) Farm recapture property

The term "farm recapture property" means—

(A) any property (other than section 1250 property) described in paragraph (1) (relating to business property held for more than 1 year), (3) (relating to livestock), or (4) (relating to an unharvested crop) of section 1231(b) which is or has been used in the trade or business of farming by the taxpayer or by a transferor in a transaction described in subsection (b)(5), and

[*See main edition for text of (B); (2) to (5)*]

(As amended Pub. L. 94-455, title XIV, § 1402(b)(2), Oct. 4, 1976, 90 Stat. 1732.)

AMENDMENTS

1976—Subsec. (e)(1)(A). Pub. L. 94-455, § 1402(b)(2) provided that "9 months" would be changed to "1 year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1402(b)(2) of Pub. L. 94-455 provided in part for the substitution of "1 year" for "9 months" in subsec. (e)(1)(A) and that such substitution would be effective for taxable years after beginning after Dec. 31, 1977.

Subchapter Q—Readjustment of Tax Between Years and Special Limitations

PART I—INCOME AVERAGING

§ 1301. Limitation on tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 5 of this title.

§ 1302. Definition of averagable income; related definitions

[*See main edition for text of (a)*]

(b) Average base period income

For purposes of this part—

[*See main edition for text of (1) and (2)*]

(3) Transitional rule for determining base period income

The base period income (determined under paragraph (2)) for any taxable year beginning before January 1, 1977, shall be increased by the amount of the taxpayer's zero bracket amount for the computation year.

[*See main edition for text of (c)*]

(As amended Pub. L. 95-30, title I, § 102(b)(15), May 23, 1977, 91 Stat. 138.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-30 added subsec. (b)(3).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

PART VI—MAXIMUM RATE ON PERSONAL SERVICE INCOME

§ 1348. 50-percent maximum rate on personal service income

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 1304 of this title.

PART VII—RECOVERIES OF FOREIGN EXPROPRIATION LOSSES

§ 1351. Treatment of recoveries of foreign expropriation losses

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 53, 80, 901, 936, 6167 of this title.

Subchapter S—Election of Certain Small Business Corporations as to Taxable Status

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 46, 48, 50A, 50B, 53, 172, 1212, 6037, 6103 of this title.

§ 1371. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 48, 50B, 52, 57, 58, 163, 170, 183, 189, 280, 465, 992, 1016, 1101, 1251, 1372, 6037, 6362 of this title; title 46 section 1177.

§ 1378. Tax imposed on certain capital gains

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 50A, 53, 58, 1372, 1373, 1375 of this title.

Subchapter T—Cooperatives and Their Patrons

PART I—TAX TREATMENT OF COOPERATIVES

§ 1381. Organizations to which part applies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 50B, 52, 1382, 1385, 6044, 6072 of this title.

CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

§ 1401. Rate of tax

(a) Old-age, survivors, and disability insurance

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 8.00 percent of the amount of the self-employment income for such taxable year;

(5) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

(6) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.55 percent of the amount of the self-employment income for such taxable year; and

(7) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 9.30 percent of the amount of the self-employment income for such taxable year.

(b) Hospital insurance

In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 1.05 percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 1.30 percent of the amount of the self-employment income for such taxable year;

(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year.

(c) Relief from taxes in cases covered by certain international agreements

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

(As amended Dec. 20, 1977, Pub. L. 95-216, title I, § 101(a)(3), (b)(3), title III, § 317(b)(1), 91 Stat. 1511, 1512, 1539.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c) is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Section 233 of such Act is classified to section 433 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216, § 101(a)(3), substituted provisions calling for a graduated increase in the tax from 7.0 percent for taxable years beginning before Jan. 1, 1978, to 9.30 percent for taxable years beginning after Dec. 31, 1989, for provisions under which the tax had been set at 7.0 percent without any increase in the rate in future years.

Subsec. (b). Pub. L. 95-216, § 101(b)(3), substituted "after December 31, 1977, and before January 1, 1979" for "after December 31, 1977, and before January 1, 1981" and "1.00 percent" for "1.10 percent" in par. (2), substituted "after December 31, 1978, and before January 1, 1981" for "after December 31, 1980, and before January 1, 1986" and "1.05 percent" for "1.35 percent" in par. (3), substituted "after December 31, 1980, and before January 1, 1985" for "after December 31, 1985" and "1.30 percent" for "1.50 percent" in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95-216, § 317(b)(1), added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 104 of Pub. L. 95-216 provided that: "The amendments made by this title [amending sections 1401, 3101, and 3111 of this title and sections 401, 415, and 430 of Title 42, The Public Health and Welfare] shall apply with respect to remuneration paid or received, and taxable years beginning, after 1977."

DEDUCTION BY OR CREDIT AGAINST INDIVIDUAL INCOME TAX FOR TAXES PAID INTO FOREIGN SOCIAL SECURITY SYSTEM PURSUANT TO INTERNATIONAL AGREEMENT

Section 317(b)(4) of Pub. L. 95-216 provided that: "Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in accordance with the terms of

an agreement entered into pursuant to section 233 of the Social Security Act [section 433 of Title 42, The Public Health and Welfare] shall not, under the income tax laws of the United States, be deductible by, or creditable against the income tax of, any such individual."

§ 1402. Definitions

(a) Net earnings from self-employment

The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

[*See main edition for text of (1) to (9)*]

(10) there shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

[*See main edition for text of (A) and (B)*]

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A);

(11) in the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) shall not apply; and

(12) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600 his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be $1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (i), or by a partnership of which an individual is a member on a regular basis as defined in subsection (i), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable year are less than $1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed $1,600.

[*See main edition for text of (b) to (h)*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 313(b), 91 Stat. 1536.)

AMENDMENTS

1977—Subsec. (a)(12). Pub. L. 95-216 added subsec. (a)(12).

EFFECTIVE DATE OF 1977 AMENDMENT.

Amendment by Pub. L. 95-216 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 313(c) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 411 of Title 42, The Public Health and Welfare.

REVOCATION OF EXEMPTION FROM COVERAGE BY CLERGYMEN; PROCEDURE, APPLICABILITY, ETC.

Section 316 of Pub. L. 95-216 provided that:

"(a) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code, by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act [Pub. L. 95-216, enacted Dec. 20, 1977] is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code [this chapter]), if such application is filed—

"(1) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of Title 42, The Public Health and Welfare] (without regard to section 202(j)(1) or 223(b) of such Act [section 402(j)(1) or 423(b) of Title 42]), and

"(2) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act [Dec. 20, 1977].

Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1954 [this chapter] and title II of the Social Security Act [section 401 et seq. of Title 42]), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act [Dec. 20, 1977] or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act [Dec. 20, 1977] and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code [this chapter] (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

"(b) Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years ending on or after the date of the enactment of this Act [Dec. 20, 1977], and with respect to monthly insurance benefits payable under title II of the Social Security Act [section 401 et seq. of Title 42] on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43, 52, 401, 981, 2032A, 6362, 6521, 6654 of this title; title 42 sections 401, 402, 411, 430.

CHAPTER 6—CONSOLIDATED RETURNS

Subchapter A—Returns and Payment of Tax

§ 1504. Definitions

[*See main edition for text of (a)*]

(b) Definition of "includible corporation"

As used in this chapter, the term "includible corporation" means any corporation except—

[*See main edition for text of (1) to (4)*]

[(5) Repealed. Pub. L. 94-455, title X, § 1053(d)(2), Oct. 4, 1976, 90 Stat. 1649]

[*See main edition for text of (6) and (7); (c) to (e)*]

(As amended Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(d)(2), 90 Stat. 1649.)

AMENDMENTS

1976—Subsec. (b)(5). Pub. L. 94-455, § 1053(d)(2), struck out subsec. (b)(5) which included corporations organized under the China Trade Act, 1922, within the term "includible corporation".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (b)(5) by Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94-455, set

out as an Effective Date of 1976 Amendment note under section 116 of this title.

Subchapter B—Related Rules

PART II—CERTAIN CONTROLLED CORPORATIONS

§ 1563. Definitions and special rules

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46, 48, 50A, 52, 58, 103, 120, 179, 250, 368, 382, 404, 414, 415, 613A, 861, 993, 1504, 1551, 1561, 1564; title 29 sections 1002, 1060, 1107, 1301, 1322.

Subtitle B—Estate and Gift Taxes

CHAPTER 11—ESTATE TAX

Subchapter A—Estates of Citizens or Residents

PART II—CREDITS AGAINST TAX

§ 2011. Credit for State death taxes

[*See main edition for text of (a) to (d)*]

(e) Limitation in cases involving deduction under section 2053(d)

In any case where a deduction is allowed under section 2053(d) for an estate, succession, legacy, or inheritance tax imposed by a State or the District of Columbia upon a transfer for public, charitable, or religious uses described in section 2055 or 2106(a)(2), the allowance of the credit under this section shall be subject to the following conditions and limitations:

[*See main edition for text of (1)*]

(2) The credit shall not exceed the lesser of—

(A) the amount stated in subsection (b) on a adjusted taxable estate determined by allowing such deduction authorized by section 2053(d), or

(B) that proportion of the amount stated in subsection (b) on a adjusted taxable estate determined without regard to such deduction authorized by section 2053(d) as (i) the amount of the taxes described in subsection (a), as limited by the provisions of paragraph (1) of this subsection, bears to (ii) the amount of the taxes described in subsection (a) before applying the limitation contained in paragraph (1) of this subsection.

[*See main edition for text of (3); (f)*]

CODIFICATION

Subsection (e)(2) is set out in this supplement to correct error in executing the amendment made by Pub. L. 94-455, title XX, § 2001(c)(1)(A)(iii).

§ 2012. Credit for gift tax

CODIFICATION

The date in the section credit for Pub. L. 91-614 should read Dec. 31, 1970, not Dec. 18, 1970.

PART III—GROSS ESTATE

§ 2040. Joint interests

CODIFICATION

Section credit should read: Aug. 16, 1954, ch. 736, 68A Stat. 385; Oct. 16, 1962, Pub. L. 87-834, § 18(a)(2)(G), 76 Stat. 1052; Oct. 4, 1976, Pub. L. 94-455, title XX, § 2002(c)(1), (3), 90 Stat. 1855, 1856.

PART IV—TAXABLE ESTATE

§ 2056. Bequests, etc., to surviving spouse

[*See main edition for text of (a), (b)*]

(c) Limitation on aggregate of deductions

(1) Limitation

[*See main edition for text of (A), (B)*]

(C) Community property adjustment

The $250,000 amount set forth in subparagraph (A)(i) shall be reduced by the excess (if any) of—

(i) the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2)(B), over

(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2)(B).

[*See main edition for text of (2); (d)*]

CODIFICATION

Subsec. (c)(1)(C) is set out in this supplement to correct typographical error appearing in the main edition.

CHAPTER 12—GIFT TAX

Subchapter A—Determination of Tax Liability

§ 2501. Imposition of tax

(a) Taxable transfers

[*See main edition for text of (1) to (4)*]

(5) Transfers to political organizations

Paragraph (1) shall not apply to the transfer of money or other property to a political organization (within the meaning of section 527(e)(1)) for the use of such organization.

[*See main edition for text of (b) to (d)*]

CODIFICATION

Subsec. (a)(5) is set out in this supplement to correct typographical error appearing in the main edition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 305, 351, 1101, 2502, 2505, 2511, 2621 of this title.

Subchapter B—Transfers

§ 2517. Certain annuities under qualified plans

[*See main edition for text of (a) to (c)*]

(d) Employee defined

For purposes of this section, the term "employee" includes a former employee. In the case

of a retirement plan described in paragraph (5) of subsection (a), such term means the individual for whose benefit the plan was established.

CODIFICATION

Subsec. (d) is set out in this supplement to correct typographical error appearing in the main edition.

Subtitle C—Employment Taxes

CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

Subchapter A—Tax on Employees

§ 3101. Rate of tax

(a) Old-age, survivors, and disability insurance

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;

(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

(4) with respect to wages received during the calendar year 1981, the rate shall be 5.35 percent;

(5) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

(6) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.70 percent; and

(7) with respect to wages received after December 31, 1989, the rate shall be 6.20 percent.

(b) Hospital insurance

In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(2) with respect to wages received during the calendar year 1978, the rate shall be 1.00 percent;

(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

(5) with respect to wages received during the calendar year 1985, the rate shall be 1.35 percent; and

(6) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent.

(c) Relief from taxes in cases covered by certain international agreements

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

(As amended Dec. 20, 1977, Pub. L. 95-216, title I, § 101(a)(1), (b)(1), title III, § 317(b)(2), 91 Stat. 1510, 1511, 1540.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c) is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Section 233 of such Act is classified to section 433 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216, § 101(a)(1), substituted "1974 through 1977" for "1974 through 2010" in par. (1), substituted "wages received during the calendar year 1978, the rate shall be 5.05 percent" for "wages received after December 31, 2010, the rate shall be 5.95 percent" in par. (2), and added pars. (3) to (7).

Subsec. (b). Pub. L. 95-216, § 101(b)(1), substituted "wages received during the calendar year 1978, the rate shall be 1.00 percent" for "wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent" in par. (2), substituted "wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent" for "wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent", in par. (3), substituted "wages received during the calendar years 1981 through 1984, the rate shall be 1.30 percent" for "wages received after December 31, 1985, the rate shall be 1.50 percent" in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95-216, § 317(b)(2), added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 applicable with respect to remuneration paid or received, and taxable years beginning, after 1977, see section 104 of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 1401 of this title.

§ 3102. Deduction of tax from wages

(a) Requirement

The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar quarter is less than $50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such

tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $100; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than $20.

[*See main edition for text of* (b)]

(c) Special rule for tips

(1) In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the year) in which the tips were deemed paid, by deducting the amount of the tax from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3101, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the wages of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following year) an amount of money equal to the amount of the excess.

(3) The Secretary may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any calendar year,

(B) to determine the amount to be deducted upon each payment of wages (exclusive of tips) during such year as if the tips so estimated constituted the actual tips so reported, and

(C) to deduct upon any payment of wages (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such year (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such wages of the employee during the year to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the year.

(4) If the tax imposed by section 3101 with respect to tips which constitute wages exceeds the portion of such tax which can be collected by the employer from the wages of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 355(a), (b), 91 Stat. 1555.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216, § 355(a), substituted "cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable" for "cash remuneration to which paragraph (7)(B) or (C) or (10) of section 3121(a) is applicable" and added "and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $100;".

Subsec. (c)(1). Pub. L. 95-216, § 355(b)(1), substituted "year" for "quarter".

Subsec. (c)(2). Pub. L. 95-216, § 355(b)(1), substituted "year" for "quarter".

Subsec. (c)(3)(A). Pub. L. 95-216, § 355(b)(2)(A), substituted "in any calendar year" for "in any quarter of the calendar year".

Subsec. (c)(3)(B), (C). Pub. L. 95-216, § 355(b)(2)(B), substituted "year" for "quarter", wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 355(c) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsecs. (a) and (c)(1) to (3) of this section] shall apply with respect to remuneration paid and to tips received after December 31, 1977."

Subchapter B—Tax on Employers

§ 3111. Rate of tax

(a) Old-age, survivors, and disability insurance

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a) and (t)) paid by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

(4) with respect to wages paid during the calendar year 1981, the rate shall be 5.35 percent;

(5) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

(6) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.70 percent; and

(7) with respect to wages paid after December 31, 1989, the rate shall be 6.20 percent.

(b) Hospital insurance

In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a) and (t)) paid by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(2) with respect to wages paid during the calendar year 1978, the rate shall be 1.00 percent;

(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

(5) with respect to wages paid during the calendar year 1985, the rate shall be 1.35 percent; and

(6) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.

(c) Relief from taxes in cases covered by certain international agreements

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

(As amended Dec. 20, 1977, Pub. L. 95-216, title I, § 101(a)(2), (b)(2), title III, §§ 315(b), 317(b)(2), 91 Stat. 1511, 1512, 1537, 1540.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c) is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Section 233 of such Act is classified to section 433 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216, §§ 101(a)(2), 315(b), substituted "(as defined in section 3121(a) and (t))" for "(as defined in section 3121(a))" in the provisions preceding par. (1), substituted "1974 through 1977" for "1974 through 2010" in par. (1), substituted "wages paid during the calendar year 1978, the rate shall be 5.05 percent" for "wages paid after December 31, 2010, the rate shall be 5.95 percent" in par. (2), and added pars. (3) to (7).

Subsec. (b). Pub. L. 95-216, §§ 101(b)(2), 315(b), substituted "(as defined in section 3121(a) and (t))" for "(as defined in section 3121(a))" in the provisions preceding par. (1), substituted "wages paid during the calendar year 1978, the rate shall be 1.00 percent" for "wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent", in par. (2), substituted "wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent" for wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent" in par. (3), substituted "wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent" for "wages paid after December 31, 1985, the rate shall be 1.50 percent" in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95-216, § 317(b)(2), added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 applicable with respect to remuneration paid or received, and taxable years beginning, after 1977, see section 104 of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 1401 of this title.

Section 315(c) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsecs. (a) and (b) of this section and enacting section 3121(t) of this title] shall apply with respect to wages paid with respect to employment performed in months after December 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 3112, 3121, 3122, 3125, 3211, 3221, 6051, 6205, 6413, 6690 of this title; title 42 sections 401, 401a, 418, 907, 1395i.

Subchapter C—General Provisions

§ 3121. Definitions

(a) Wages

For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

[*See main edition for text of (1) to (6)*]

(7)[*See main edition for text of (A) and (B)*]

(C) cash remuneration paid by an employer in any calendar year to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such year by the employer to the employee for such service is less than $100. As used in this subparagraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in subsection (g)(5);

[*See main edition for text of (8) and (9)*]

(10) remuneration paid by an employer in any calendar year to an employee for service described in subsection (d)(3)(C) (relating to home workers), if the cash remuneration paid in such year by the employer to the employee for such service is less than $100;

[*See main edition for text of (11) to (13)*]

(14) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(15) any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made; or

(16) remuneration paid by an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100.

(b) Employment

For purposes of this chapter, the term "employment" means any service, of whatever nature, performed either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)); except that such term shall not include—

[*See main edition for text of (1) to (9)*]

(10) service performed in the employ of—

(A) a school, college, or university, or

(B) an organization described in section 509(a)(3) if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services performed in its employ by a student referred to in section 218(c)(5) of the Social Security Act are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 218 of such Act;

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;

[*See main edition for text of (11) to (16)*]

(17) service in the employ of any organization which is performed (A) in any year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

[*See main edition for text of (18) to (20); (c) to (f)*]

(g) Agricultural labor

For purposes of this chapter, the term "agricultural labor" includes all service performed—

[*See main edition for text of (1) to (3)*]

(4) [*See main edition for text of (A)*]

(B) in the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar year in which such service is performed;

[*See main edition for text of (C); (5)*]

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

[*See main edition for text of (h) to (j)*]

(k) Exemption of religious, charitable, and certain other organizations

[*See main edition for text of (1) to (3)*]

(4) Constructive filing of certificate where no refund or credit of taxes has been made

(A) In any case where—

(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph (or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph), but

(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i)) of

not less than three consecutive calendar quarters,

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective (subject to subparagraph (C)) on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

(B) Subparagraph (A) shall not apply with respect to any organization if—

(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the first day of the calendar quarter of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976, or

(iii) the organization, prior to the end of the period referred to in clause (ii) of such subparagraph (and, in the case of an organization organized on or before October 9, 1969, prior to October 19, 1976), had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c)(3), and it subsequently received such ruling or determination letter and did not pay any taxes under sections 3101 and 3111 with respect to any employee with respect to any quarter ending after the twelfth month following the date of mailing of such ruling or determination letter and did not pay any such taxes with respect to any quarter beginning after the later of (I) December 31, 1975 or (II) the date on which such ruling or determination letter was issued.

(C) In the case of any organization which is deemed under this paragraph to have filed a valid waiver certificate under paragraph (1), if—

(i) the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by such organization (as described in subparagraph (A)(ii)) terminated prior to October 1, 1976, or

(ii) the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in clause (i) (whether such period has terminated or not) with respect to remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began,

taxes under sections 3101 and 3111—

(iii) in the case of an organization which meets the requirements of this subparagraph by reason of clause (i), with respect to remuneration paid by such organization after the termination of the period referred to in clause (i) and prior to July 1, 1977; or

(iv) in the case of an organization which meets the requirements of this subparagraph by reason of clause (ii), with respect to remuneration paid prior to July 1, 1977, to individuals who became its employees after the close of the calendar quarter in which the period referred to in clause (i) began,

which remain unpaid on the date of the enactment of this subparagraph, or which were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph, shall not be due or payable (or, if paid, shall be refunded); and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (which remain unpaid on the date of the enactment of this subparagraph, or were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph) are not due and payable (or are refunded) by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by sections 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (A)(ii) during which the taxes imposed by such sections were paid by such organization.

(5) Constructive filing of certificate where refund or credit has been made and new certificate is not filed

In any case where—

[*See main edition for text of (A)*]

(B) such organization has not, prior to April 1, 1978, filed a valid waiver certificate under paragraph (1) which is effective for a

period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

such organization shall be deemed, for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on April 1, 1978, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on April 1, 1978, shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary.

(6) Application of certain provisions to cases of constructive filing

All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved (except as provided in paragraph (4)(C)), shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

[*See main edition for text of (A) to (C)*]

(7) Both employee and employer taxes payable by organization for retroactive period in cases of constructive filing

Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5)(A) has not filed a valid waiver certificate under paragraph (1) prior to April 1, 1978, and is accordingly deemed under paragraph (5) to have filed such a certificate on April 1, 1978, the taxes due under section 3101, with respect to services constituting employment by reason of such certificate for any period prior to that date (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5)(A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

(8) Extended period for payment of taxes for retroactive coverage

Notwithstanding any other provision of this title, in any case where—

(A) an organization is deemed under paragraph (4) to have filed a valid waiver certificate under paragraph (1), but the applicable period described in paragraph (4)(A)(ii) has terminated and part or all of the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by such organization to its employees after the close of such period remains payable notwithstanding paragraph (4)(C), or

(B) an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by March 31, 1978, as described in paragraph (5)(B), or (not having filed such a certificate by that date) is deemed under paragraph (5) to have filed such a certificate on April 1, 1978, or

(C) an individual files a request under section 3 of Public Law 94-563, or under section 312(c) of the Social Security Amendments of 1977, to have service treated as constituting remuneration for employment (as defined in section 3121(b) and in section 210(a) of the Social Security Act),

the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs, or with respect to service constituting employment by reason of such request, may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.

[*See main edition for text of (l) to (r)*]

(s) Concurrent employment by two or more employers

For purposes of sections 3102, 3111, and 3121(a)(1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

(t) Special rule for determining wages subject to employer tax in case of certain employers whose employees receive income from tips

If the wages paid by an employer with respect to the employment during any month of an individual who (for services performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such total amount.

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, §§ 312(a), (b), (d), (f), (g), 314(a), 315(a), 356(a)-(d), 91 Stat. 1532-1536, 1555.)

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (k)(4)(C), is Dec. 20, 1977.

The Social Security Act, referred to in subsec. (k)(4)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 3 of Public Law 94-563, referred to in subsec. (k)(8)(C), is Pub. L. 94-563, § 3, Oct. 19, 1976, 90 Stat. 2658, which is set out as a note below.

Section 312(c) of the Social Security Amendments of 1977, referred to in subsec. (k)(8)(C), is Pub. L. 95-216, title III, § 312(c), Dec. 20, 1977, 91 Stat. 1533, which is set out as a note below.

The Social Security Act, referred to in subsec. (k)(8)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Section 210(a) of such Act is classified to section 410(a) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (t), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. Sections 3(m) and 6(a)(1) of such Act are classified to sections 203(m) and 206(a)(1), respectively, of Title 29. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (a)(7)(C). Pub. L. 95-216, § 356(a), substituted "year" for "quarter" wherever appearing and "$100" for "$50".

Subsec. (a)(10). Pub. L. 95-216, § 356(a), substituted "year" for "quarter" wherever appearing and "$100" for "$50".

Subsec. (a)(16). Pub. L. 95-216, § 356(b), added subsec. (a)(16).

Subsec. (b)(10). Pub. L. 95-216, § 356(c), struck out subpar. (A) which had related to service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) (other than an organization described in section 401(a) or under section 521, if the remuneration for such service was less than $50, struck out the designation "(B)" preceding the remainder of subsec. (b)(10), and redesignated former cls. (i) and (ii) of former subpar. (B) as subpars. (A) and (B).

Subsec. (b)(17)(A). Pub. L. 95-216, § 356(d), substituted "year" for "quarter".

Subsec. (g)(4)(B). Pub. L. 95-216, § 356(d), substituted "year" for "quarter".

Subsec. (k)(4)(A). Pub. L. 95-216, § 312(b)(2), (f), substituted "(or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph)" for "or any subsequent date" in cl. (i) and, in the provisions following cl. (ii), added "(subject to subparagraph (C))" following "effective".

Subsec. (k)(4)(B)(ii). Pub. L. 95-216, § 312(b)(4), substituted "first day of the calendar quarter" for "date".

Subsec. (k)(4)(B)(iii). Pub. L. 95-216, § 312(g), added subsec. (k)(4)(B)(iii).

Subsec. (k)(4)(C). Pub. L. 95-216, § 312(b)(1), added subsec. (k)(4)(C).

Subsec. (k)(5). Pub. L. 95-216, § 312(a)(1), substituted "prior to April 1, 1978," for "prior to the expiration of 180 days after the date of the enactment of this paragraph," in subpar. (B), and, in the provisions following subpar. (B), substituted "April 1, 1978" for "the 181st day after the date of enactment of this paragraph" and substituted "April 1, 1978," for "such 181st day".

Subsec. (k)(6). Pub. L. 95-216, § 312(b)(3), inserted "(except as provided in paragraph (4)(C))" following "services involved" in the provisions preceding subpar. (A).

Subsec. (k)(7). Pub. L. 95-216, § 312(a)(2), substituted "prior to April 1, 1978," for "prior to the expiration of 180 days after the date of the enactment of this paragraph", "April 1, 1978," for "the 181st day after such date," and "prior to that date" for "prior to the first day of the calendar quarter in which such 181st day occurs".

Subsec. (k)(8). Pub. L. 95-216, § 312(a)(3), (d), amended subsec. (k)(8) first by substituting "prior to April 1, 1978," for "by the end of the 180-day period following the date of the enactment of this paragraph", "prior to April 1, 1978" for "within that period", and "on that date" for "on the 181st day following that date", and then further amending subsec. (k)(8) as so amended by dividing the existing provisions into introductory provisions, subpar. (B), and closing provisions, adding subpars. (A) and (C), substituting "by March 31, 1978" for "prior to April 1, 1978", "by that date" for "prior to April 1, 1978", and "on April 1, 1978" for "on that date" in subpar. (B) as so redesignated, and, in the closing provisions, adding ", or with respect to service constituting employment by reason of such request," following "in which the date of such filing or constructive filing occurs".

Subsec. (s). Pub. L. 95-216, § 314(a), added subsec. (s).

Subsec. (t). Pub. L. 95-216, § 315(a), added subsec. (t).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 312(h) of Pub. L. 95-216 provided that: "The amendments made by subsections (a), (b), (d), (e), (f), and (g) of this section [amending this section and provisions set out as a note under this section] shall be effective as though they had been included as a part of the amendments made to section 3121(k) of the Internal Revenue Code of 1954 by the first section of Public Law 94-563 [which enacted subsec. (k)(4) to (8) of this section] (or, in the case of the amendments made by subsection (e), as a part of section 3 of such Public Law)."

Section 314(c) of Pub. L. 95-216 provided that: "The amendments made by this section [enacting subsec. (s) of this section and subsec. (p) of section 3306 of this title] shall apply with respect to wages paid after December 31, 1978."

Enactment of subsec. (t) of this section by Pub. L. 95-216 applicable with respect to wages paid with respect to employment performed in months after Dec. 1977, see section 315(c) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 3111 of this title.

Section 356(e) of Pub. L. 95-216 provided that: "The amendments made by this section [to subsecs. (a)(7)(C), (10), (14)-(16), (b)(10), (17)(A), (g)(4)(B) of this section] shall apply with respect to remuneration paid and services rendered after December 31, 1977."

REMUNERATION FOR SERVICES DEEMED TO CONSTITUTE EMPLOYMENT; SERVICES FOR ORGANIZATIONS DEEMED TO HAVE FILED CERTIFICATES UNDER SUBSECTION (k)(4) OF THIS SECTION

Section 312(c) of Pub. L. 95-216 provided that:

"In any case where—

"(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(4) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, on or after the first day of the applicable period described in subparagraph (A)(ii) of such section 3121(k)(4) and before July 1, 1977; and

"(2) the service so performed does not constitute employment (as defined in section 210(a) of the Social Security Act [section 410(a) of Title 42, The Public Health and Welfare] and section 3121(b) of such Code) because the waiver certificate which the organization is deemed to have filed is made inapplicable to such service by section 3121(k)(4)(C) of such Code, but would constitute employment (as so defined) in the absence of such section 3121(k)(4)(C),

the remuneration paid for such service shall, upon the request of such individual (filed on or before April 15, 1980, in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act [section 401 et seq. of Title 42]) accompanied by full payment of all of the taxes which would have been paid under section 3101 of such Code with respect to such remuneration but for such section 3121(k)(4)(C) (or by satisfactory evidence that appropriate arrangements have been made for the payment of such taxes in installments as provided in section 3121(k)(8) of such Code), be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for payment of the taxes which it would have been required to pay under section 3111 of such Code with respect to such remuneration in the absence of such section 3121(k)(4)(C)."

REMUNERATION FOR SERVICES DEEMED TO CONSTITUTE EMPLOYMENT; SERVICES FOR ORGANIZATIONS DEEMED TO HAVE FILED CERTIFICATES UNDER SUBSECTION (k)(5) OF THIS SECTION

Section 3 of Pub. L. 94-563 as amended by Pub. L. 95-216, title III, § 312(e), Dec. 20, 1977, 91 Stat. 1535, provided that:

"In any case where—

* * * * *

the remuneration paid for the portion of such service described in paragraph (3) shall, upon the request of such individual (filed on or before April 15, 1980, in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act [section 401 et seq. of Title 42]) accompanied by full repayment of the taxes which were paid under section 3101 of such Code [section 3101 of this title] with respect to such remuneration and so refunded or credited (or by satisfactory evidence that appropriate arrangements have been made for the repayment of such taxes in installments as provided in section 3121(k)(8) of such Code), be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for repayment of any taxes which it paid under section 3111 of such Code [section 3111 of this title] with respect to such remuneration and which were refunded or credited to it."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44A, 51, 176, 401, 406, 412, 1402, 1563, 3101, 3102, 3111, 3122, 3124, 3125, 3201, 3202, 3211, 3221, 3306, 3401, 6051, 6053, 6413, 6652 of this title; title 7 section 2042; title 20 section 125; title 29 section 1082; title 42 sections 401, 409, 410, 430; title 45 sections 231b, 231e; title 49 section 303.

CHAPTER 22—RAILROAD RETIREMENT TAX ACT

Subchapter B—Tax on Employee Representatives

§ 3211. Rate of tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 1402, 3502, 6051, 6413 of this title; title 42 section 430; title 45 sections 231e, 231n.

Subchapter C—Tax on Employers

§ 3221. Rate of tax

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3211, 3231, 6205, 6413 of this title; title 42 section 430; title 45 section 231n.

CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

§ 3302. Credits against tax

[*See main edition for text of (a) and (b)*]

(c) Limit on total credits

[*See main edition of text of (1)*]

(2) If an advance or advances have been made to the unemployment account of a State under title XII of the Social Security Act, then the total credits (after applying subsections (a) and (b) and paragraph (1) of this subsection) otherwise allowable under this section for the taxable year in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced—

[*See main edition for text of (A) to (C)*]

The provisions of the preceding sentence shall not be applicable with respect to the taxable year beginning January 1, 1975, or any succeeding taxable year which begins before January 1, 1980; and, for purposes of such sentence, January 1, 1980, shall be deemed to be the first January 1 occurring after January 1, 1974, and consecutive taxable years in the period commencing January 1, 1980, shall be determined as if the taxable year which begins on January 1, 1980, were the taxable year immediately succeeding the taxable year which began on January 1, 1974.

[*See main edition for text of (3); (d) and (e)*]

(As amended Apr. 12, 1977, Pub. L. 95-19, title II, § 201(a), 91 Stat. 43.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-19 substituted "January 1, 1980" for "January 1, 1978" wherever appearing.

FINDINGS OF SECRETARY OF LABOR CONCERNING STEPS TAKEN BY STATES AS PREREQUISITE TO SUSPENSION UNTIL JANUARY 1, 1980, OF AUTOMATIC INCREASES IN FEDERAL UNEMPLOYMENT TAX

Section 201(b) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [amending subsec. (c)(2) of this section] shall not apply in the case of any State unless the Secretary of Labor finds that such State meets the requirements of section 110(b) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 [set out as a note under this section in the 1976 Edition of this Code]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3303, 3304, 3305, 3306 of this title; title 42 section 1101.

§ 3304. Approval of State laws

(a) Requirements

The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

[*See main edition for text of (1) to (5)*]

(6)(A) compensation is payable on the basis of service to which section 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to such law; except that—

(i) with respect to services in an instructional, research, or principal administrative capacity for an educational institution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms,

(ii) with respect to services in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms,

(iii) with respect to any services described in clause (i) or (ii), compensation payable on the basis of such services may be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess, and

(iv) with respect to any services described in clause (i) or (ii), compensation payable on the basis of services in any such capacity may be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and

(B) payments (in lieu of contributions) with respect to service to which section 3309(a)(1) applies may be made into the State unemployment fund on the basis set forth in section 3309(a)(2);

[*See main edition for text of (7) to (13)*]

(14)(A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

[*See main edition for text of (B) and (C)*]

(15) the amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;

(16)(A) wage information contained in the records of the agency administering the State law which is necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under part A of title IV of the Social Security Act, shall be made available to a State or political subdivi-

sion thereof when such information is specifically requested by such State or political subdivision for such purposes, and

(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the purposes authorized under subparagraph (A);

(17) all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

[*See main edition for text of (b) to (f)*]

(As amended Apr. 12, 1977, Pub. L. 95-19, title III, § 302(a), (c), (e), 91 Stat. 44, 45; Nov. 12, 1977, Pub. L. 95-171, § 2(a), 91 Stat. 1353; Dec. 20, 1977, Pub. L. 95-216, title IV, § 403(b), 91 Stat. 1561.)

References in Text

The Social Security Act, referred to in subsec. (a)(16)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Amendments

1977—Subsec. (a)(6)(A)(i). Pub. L. 95-19, § 302(c)(1), (2), inserted a comma between "instructional" and "research", substituted "two successive academic years or terms" for "two successive academic years", and struck out "and" following "the second of such academic years or terms,".

Subsec. (a)(6)(A)(iii). Pub. L. 95-19, § 302(c)(3), added cl. (iii).

Subsec. (a)(6)(A)(iv). Pub. L. 95-171 added cl. (iv).

Subsec. (a)(14)(A). Pub. L. 95-19, § 302(a), substituted "who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was" for "who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is".

Subsec. (a)(15). Pub. L. 95-19, § 302(e), substituted "March 31, 1980" for "September 30, 1979".

Subsec. (a)(16). Pub. L. 95-216 added subsec. (a)(16). Former subsec. (a)(16) redesignated (a)(17).

Subsec. (a)(17). Pub. L. 95-216 redesignated subsec. (a)(16) as (a)(17).

Effective Date of 1977 Amendments

Amendment by Pub. L. 95-216 effective on Dec. 20, 1977, see section 403(d) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 602 of Title 42, The Public Health and Welfare.

Section 2(b) of Pub. L. 95-171 provided that: "The amendments made by subsection (a) [enacting cl. (iv) of subsec. (a)(6)(A) of this section] shall apply with respect to weeks of unemployment which begin after December 31, 1977."

Section 302(d)(1) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [amending subsec. (a)(14)(A) of this section] shall take effect as if included in the amendment made by section 314 of the Unemployment Compensation Amendments of 1976 [which originally enacted subsec. (a)(14)(A) of this section in 1976]."

Section 302(d)(3) of Pub. L. 95-19 provided that: "The amendments made by subsection (c) [amending subsec. (a)(6)(A) of this section] shall take effect as if included in the amendments made by section 115(c) of the Unemployment Compensation Amendments of 1976 [which amended subsec. (a)(6)(A) of this section in 1976. See 1976 Amendments note under this section in the 1976 Edition of this Code]."

Effective Date of 1976 Amendments

Section 115(d) of Pub. L. 94-566, as amended Pub. L. 95-19, title III, § 301(a), Apr. 12, 1977, 91 Stat. 43, effective Oct. 20, 1976, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending subsec. (a)(6)(A) and adding subsec. (f) of this section, amending the catchline of section 3309 of this title, amending subsecs. (a)(1)(B), (b)(3), and (b)(6), and repealing subsec. (d) thereof] shall apply with respect to certifications of States for 1978 and subsequent years; except that—

"(A) the amendments made by subsections (a) and (b) [amending section 3309(a)(1)(B), (b)(3), and (b)(6) of this title] shall only apply with respect to services performed after December 31, 1977; and

"(B) the amendments made by subsection (c) [amending subsec. (a)(6)(A) and enacting subsec. (f) of this section and repealing section 3309(d) of this title] shall only apply with respect to weeks of unemployment which begin after December 31, 1977.

"(2) In the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendments made by subsection (c) [amending subsec. (a)(6)(A) and enacting subsec. (f) of this section and repealing section 3309(d) of this title] shall only apply with respect to weeks of unemployment which begin after December 31, 1978 (or if earlier, the date provided by State law)."

Section 312(c) of Pub. L. 94-566, as amended Pub. L. 95-19, title III, § 301(b), Apr. 12, 1977, 91 Stat. 43, effective Oct. 20, 1976, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending subsecs. (a)(12) and (c) of this section] shall apply with respect to certifications of States for 1978 and subsequent years.

"(2) In the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendments made by this section [amending subsecs. (a)(12) and (c) of this section] shall apply with respect to the certification of such State for 1979 and subsequent years."

Section 506(c) of Pub. L. 94-566, as amended Pub. L. 95-19, title III, § 301(c), Apr. 12, 1977, 91 Stat. 44, effective Oct. 20, 1976, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending subsec. (a)(6)(B) of this section and section 3309(a)(2) of this title] shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.

"(2) In the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendments made by this section [amending subsec. (a)(6)(B) of this section and section 3309(a)(2) of this title] shall apply with respect to the certification of such State for 1979 and subsequent years, but only with respect to services performed after December 31, 1978."

Section 301(d) of Pub. L. 95-19 provided that: "The amendments made by this section [amending this Effective Date of 1976 Amendment note in three places] shall take effect on October 20, 1976."

Short Title of 1977 Amendment

Pub. L. 95-19, § 1, Apr. 12, 1977, 91 Stat. 39, provided that: "This Act [amending section 3304 of this title, enacting provisions set out as notes under sections 3302, 3304, and 3309 of this title, and amending provi-

sions set out as notes under sections 3302, 3304, and 3309 of this title and sections 359 and 360 of Title 2, The Congress] may be cited as the 'Emergency Unemployment Compensation Extension Act of 1977'."

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

Pub. L. 93-572, §§ 101 to 105, Dec. 31, 1974, 88 Stat. 1869-1872, as amended by Pub. L. 94-12, title VII, § 701(a), Mar. 29, 1975, 89 Stat. 65; Pub. L. 94-45, title I, §§ 101(a)-(f), 102(a), 103(a), 106, June 30, 1975, 89 Stat. 236-239; Pub. L. 94-566, title I, § 116(d)(3), Oct. 20, 1976, 90 Stat. 2672; Pub. L. 95-19, title I, §§ 101(a), 102(a) to (c), 103(a), 104(a), 105(a), 107(a), Apr. 12, 1977, 91 Stat. 39 to 42, provided that:

* * * * *

"SEC. 102. [Federal-State agreements]. (a) [State law requirements; termination of agreement]. Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter in this Act referred to as the 'Secretary') under section 3304 of the Internal Revenue Code of 1954 [this section] which desires to do so, may enter into and participate in an agreement with the Secretary under this Act, if such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970 [set out as a note under this section]. Any State which is a party to an agreement under this Act may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

"(b) [Emergency compensation]. Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

* * * * *

"(2) for any week of unemployment which—

"(A) begins in—

"(i) an emergency benefit period (as defined in subsection (c)(3)), and

"(ii) the individual's period of eligibility (as defined in section 105(a)(2)); or

"(B) begins in an individual's additional eligibility period (as defined in section 105(a)(4)); except that no payment of emergency compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

"(c) [Regular and extended compensation rights, exhaustion; emergency benefit period; publication in Federal Register; State 'emergency on' and 'emergency off' indicators.] (1) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

* * * * *

"(3)(A)(i) For purposes of subsection (b)(2)(A), in the case of any State, an emergency benefit period—

* * * * *

"(ii) In the case of any State, no emergency benefit period shall last for a period of less than 13 consecutive weeks, and no emergency benefit period which began prior to January 1, 1976, shall end prior to such date.

* * * * *

"(e) [Emergency compensation account] (1) Any agreement under this Act with a State shall provide that the State will establish, for each eligible individual who files an application for emergency compensation, an emergency compensation account.

"(2) The amount established in such account for any individual shall be equal to the lesser of—

"(A) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) 13 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970 [set out as a note under this section in the main edition]) for his benefit year.

"(3) The amount determined under paragraph (2) with respect to any individual shall be reduced by the amount of any assistance paid to such individual under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 [see Pub. L. 93-567, title II, set out as a note under this section in the main edition], for any weeks of unemployment in the 65-week period preceding the first week of unemployment with respect to which compensation is payable to such individual under this Act.

"(f) [Effective dates] (1) No emergency compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning before whichever of the following is the latest:

* * * * *

"(2) No emergency compensation shall be payable to any individual under an agreement entered into under this Act—

"(A) for any week ending after October 31, 1977, or

"(B) in the case of an individual who (for a week ending after the beginning of his most recent benefit year and before October 31, 1977) had a week with respect to which emergency compensation was payable under such agreement, for any week ending after January 31, 1978.

* * * * *

"(h) [Denial of emergency compensation to individuals who refuse offers of suitable work or who are not actively seeking work]. (1) In addition to any eligibility requirement of the applicable State law, emergency compensation shall not be payable for any week to any individual otherwise eligible to receive such compensation if during such week such individual—

"(A) fails to accept any offer of suitable work or to apply for any suitable work to which he was referred by the State agency, or

"(B) fails to actively engage in seeking work.

"(2) If any individual is ineligible for emergency compensation for any week by reason of a failure described in subparagraph (A) or (B) of paragraph (1), the individual shall be ineligible to receive emergency compensation for any week which begins during a period which—

"(A) begins with the week following the week in which such failure occurs, and

"(B) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensa-

tion Act of 1970 [set out as a note under this section in the main edition]) for his benefit year.

"(3) Emergency compensation shall not be denied under paragraph (1) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

"(A) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

"(i) the individual's average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970 [set out as a note under this section in the main edition]) for his benefit year, plus

"(ii) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week;

"(B) if the position was not offered to such individual in writing and was not listed with the State employment service;

"(C) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of paragraph (4); or

"(D) if the position pays wages less than the higher of—

"(i) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938 [section 206(a)(1) of Title 29, Labor], without regard to any exemption; or

"(ii) any applicable State or local minimum wage.

"(4) For purposes of this subsection—

"(A) The term 'suitable work' means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law.

"(B) An individual shall be treated as actively engaged in seeking work during any week if—

"(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

"(5) Any agreement under subsection (a) shall provide that, in the administration of this Act, States shall make provision for referring applicants for benefits under this Act to any suitable work to which subparagraphs (A), (B), (C), and (D) of paragraph (3) would not apply.

* * * * *

"Sec. 104. [Financing provisions]. (a) [Use of extended unemployment compensation account funds; certification] (1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) [section 1105 of Title 42, The Public Health and Welfare] of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

* * * * *

"(b) [Authorization of appropriations; repayment of advances without interest]. There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this Act. Amounts appropriated and paid to the States under section 103 with respect to weeks of unemployment ending prior to April 1, 1977, shall be repaid, without interest, as provided in section 905(d) of the Social Security Act [section 1105(d) of Title 42, The Public Health and Welfare].

"Sec. 105. (a) [Definitions]. For purposes of this Act—

"(1) the terms 'compensation', 'regular compensation', 'extended compensation', 'base period', 'benefit year', 'State', 'State agency', 'State law', and 'week' shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 [see Pub. L. 91-373, title II, § 205, set out as a note under this section in the main edition];

"(2) the term 'period of eligibility' means, in the case of any individual, the weeks in his benefit year which begin in an extended benefit period or an emergency benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period or in such emergency benefit period;

"(3) the term 'extended benefit period' shall have the meaning assigned to such term under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 [see Pub. L. 91-373, title II, § 203, set out as a note under this section in the main edition];

"(4) the term 'additional eligibility period' means the thirteen-week period following the week in which an emergency benefit period ends in a State, as determined under section 102(c)(3); but no individual shall have an additional eligibility period unless there was payable to him in such State, for the week in which such emergency benefit period ended, either emergency compensation under this Act or extended compensation under the Federal-State Extended Unemployment Compensation Act of 1970 [see Pub. L. 91-373, title II, set out as a note under this section in the main edition];

"(5) the term 'rate of insured unemployment' means the percentage arrived at by dividing the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period (as determined on the basis of the reports made by the State agency to the Secretary) by the average monthly covered employment for the specified period;

"(6) the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period; and

"(7) determinations with respect to the rate of insured unemployment in a State shall be made by the State agency in accordance with regulations prescribed by the Secretary.

For purposes of any State law which refers to an extension under Federal law of the duration of benefits under the Federal-State Extended Unemployment Compensation Act of 1970 [see Pub. L. 91-373, title II, set out as a note under this section in the main edition], this Act shall be treated as amendatory of such Act.

"(b) [Recovery of overpayments]. (1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency compensation under this Act to which he was not entitled, such individual—

"(A) shall be ineligible for further emergency compensation under this Act in accordance with the provisions of the applicable State unemployment com-

pensation law relating to fraud in connection with a claim for unemployment compensation; and

"(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

"(2)(A) In the case of individuals who have received amounts of emergency compensation under this Act to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such emergency compensation to the State agency, except that the State agency may waive such repayment if it determines that—

"(i) the payment of such emergency compensation was without fault on the part of any such individual, and

"(ii) such repayment would be contrary to equity and good conscience.

"(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the emergency compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

"(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

"(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent."

Section 101(b) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [amending section 102(f)(2) of the Emergency Unemployment Compensation Act of 1974] shall apply to weeks of unemployment ending after March 31, 1977."

Section 102(d) of Pub. L. 95-19 provided that: "The amendments made by this section [amending sections 102(b)(2)(A)(ii), (B), (c)(3)(A)(ii), and (e) and 105(a) of the Emergency Unemployment Compensation Act of 1974] shall apply to weeks of unemployment ending after April 30, 1977. For purposes of determining an individual's entitlement to emergency compensation for weeks ending after April 30, 1977, there shall be taken into account any emergency compensation paid to such individual for weeks which end after the beginning of the individual's most recent benefit year and before May 1, 1977."

Section 103(b) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [amending section 104(b) of the Emergency Unemployment Compensation Act of 1974] shall be effective on April 1, 1977."

Section 104(b) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [enacting section 102(h) of the Emergency Unemployment Compensation Act of 1974] shall apply to weeks of unemployment beginning after the date of the enactment of this Act [Apr. 12, 1977]."

Section 105(b) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [enacting section 105(b) of the Emergency Unemployment Compensation Act of 1974] shall take effect on the date of the enactment of this Act [Apr. 12, 1977]."

Section 107(b) of Pub. L. 95-19 provided that: "The amendment made by subsection (a) [enacting provisions of section 102(b)(2) of the Emergency Unemployment Compensation Act of 1974 following subpar. (B) thereof] shall apply to weeks of unemployment ending after the date of enactment of this Act [Apr. 12, 1977]."

MODIFICATION OF AGREEMENTS WITH STATES TO REFLECT AMENDMENTS UNDER EMERGENCY UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 1977

Section 106 of Pub. L. 95-19 provided that: "The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act [Apr. 12, 1977], propose to each State with which he has in effect an agreement under section 102 of the Emergency Unemployment Compensation Act of 1974 [set out as a note above] a modification of such agreement designed to provide for the payment of emergency compensation under such Act in accordance with the amendments made by this title [enacting sections 102(h) and 105(b) of the Emergency Unemployment Compensation Act of 1974, amending sections 102(b)(2), (c)(3)(A)(ii), (e), and (f)(2), 104(b), and 105(a) of that Act, and enacting provisions set out as notes under this section]. Notwithstanding any other provision of law, if any State fails or refuses, within the 3-week period beginning on the date the Secretary of Labor proposes such a modification of such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before the last day of such 3-week period."

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Section 411 of Pub. L. 94-566, as amended Pub. L. 95-19, title III, § 303, Apr. 12, 1977, 91 Stat. 45, provided that:

* * * * *

"(f) Interim report.—The Commission shall transmit to the Congress not later than September 30, 1978, an interim report.

"(g) Final report.—The Commission shall transmit to the President and the Congress not later than July 1, 1979, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

* * * * *

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

Pub. L. 91-373, title II, Aug. 10, 1970, 84 Stat. 708, as amended by Pub. L. 92-599, title V, § 501, Oct. 27, 1972, 86 Stat. 1326; Pub. L. 93-53, § 5, July 1, 1973, 87 Stat. 137; Pub. L. 93-233, § 20, Dec. 31, 1973, 87 Stat. 974; Pub. L. 93-256, § 2, Mar. 28, 1974, 88 Stat. 52; Pub. L. 93-329, § 2, June 30, 1974, 88 Stat. 288; Pub. L. 93-368, § 3, Aug. 7, 1974, 88 Stat. 420; Pub. L. 93-572, §§ 106, 107, 108, Dec. 31, 1974, 88 Stat. 1872; Pub. L. 94-45, title I, § 102(b), June 30, 1975, 89 Stat. 238; Pub. L. 94-566, title I, § 116(d)(1), (2), title II, § 212(a), title III, § 311(a), (b), Oct. 20, 1976, 90 Stat. 2672, 2677, 2678, provided:

* * * * *

"Sec. 203. [Extended Benefit Period]

* * * * *

"(f) [Rate of Insured Unemployment; Covered Employment] (1) For purposes of subsections (d) and (e), the term 'rate of insured unemployment' means the percentage arrived at by dividing—

"(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by all State agencies (or, in

the case of subsection (e), by the State agency) to the Secretary, by

"(B) the average monthly covered employment for the specified period.

"(2) Determinations under subsection (d) shall be made by the Secretary in accordance with regulations prescribed by him.

"(3) Determinations under subsection (e) shall be made by the State agency in accordance with regulations prescribed by the Secretary.

* * * * *

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3302, 3303, 3305, 3309, 3310 of this title; title 19 section 2319; title 42 sections 602, 1103.

§ 3306. Definitions

[*See main edition for text of* (a) *to* (o)]

(p) Concurrent employment by two or more employers

For purposes of sections 3301, 3302, and 3306(b)(1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

(As amended Pub. L. 95-216, title III, § 314(b), Dec. 20, 1977, 91 Stat. 1536.)

AMENDMENTS

1977—Subsec. (p). Pub. L. 95-216 added subsec. (p).

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (p) of this section applicable with respect to wages paid after Dec. 31, 1978, see section 314(c) of Pub. L. 95-216 set out as an Effective Date of 1977 Amendment note under section 3121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 3301, 3305, 3309, 6157 of this title.

§ 3309. State law coverage of services performed for nonprofit organizations or governmental entities

(a) State law requirements

For purposes of section 3304(a)(6)—

[*See main edition for text of* (1)]

(2) the State law shall provide that a governmental entity or any other organization (or group of governmental entities or other organizations) which, but for the requirements of this paragraph, would be liable for contributions with respect to service to which paragraph (1) applies may elect, for such minimum period and at such time as may be provided by State law, to pay (in lieu of such contributions) into the State unemployment fund amounts equal to the amounts of compensation attributable under the State law to such service. The State law may provide safeguards to ensure that governmental entities or other organizations so electing will make the payments required under such elections.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-19, title III, § 302(b), Apr. 12, 1977, 91 Stat. 44.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-19 substituted "(or group of governmental entities or other organizations)" for "(or group of organizations)".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 302(d)(2) of Pub. L. 95-19 provided that: "The amendment made by subsection (b) [amending subsec. (a)(2) of this section] shall take effect as if included in the amendments made by section 506 of the Unemployment Compensation Amendments of 1976 [which amended subsec. (a)(2) of this section in 1976. See 1976 Amendment note under this section]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of catchline and subsecs. (a)(1)(B), (b)(3), and (b)(6) of this section and repeal of subsec. (d) of this section by Pub. L. 94-566 to be applicable with respect to certifications of States for 1978 and subsequent years, except that the amendment of subsecs. (a)(1)(B), (b)(3), and (b)(6) to be applicable only with respect to services performed after Dec. 31, 1977, and except that the repeal of subsec. (d) to be applicable with respect to weeks of unemployment which begin after Dec. 31, 1977, and, in the case of any State legislature which does not meet in a regular session which closes during the calendar year 1977, the repeal of subsec. (d) to be applicable only with respect to weeks of unemployment which begin after Dec. 31, 1978 (or if earlier, the date provided by State law), see section 115(d) of Pub. L. 94-566, set out as an Effective Date of 1976 Amendment note under section 3304 of this title.

Amendment of subsec. (a)(2) of this section by Pub. L. 94-566 to be applicable with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after Dec. 31, 1977, but, in the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendment of subsec. (a)(2) by Pub. L. 94-566 to be applicable with respect to the certification of such State for 1979 and subsequent years, but only with respect to services performed after Dec. 31, 1978, see section 506(c) of Pub. L. 94-566, set out as an Effective Date of 1976 Amendment note under section 3304 of this title.

CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE ON WAGES

§ 3402. Income tax collected at source

(a) Requirement of withholding

Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary. With respect to wages paid after May 31, 1977, and before January 1, 1979, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1976; except that such tables shall be modified to the extent necessary so that, had they been in effect for all of 1977, they would reflect the full year effect of the amendments made by sections 101 and 102 of the Tax Reduction and Simplifica-

tion Act of 1977. With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977. For purposes of applying such tables, the term "the amount of wages" means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table prescribed under subsection (b)(1).

[*See main edition for text of* (b) *to* (e)]

(f) Withholding exemptions

(1) In general

An employee receiving wages shall on any day be entitled to the following withholding exemptions:

[*See main edition for text of* (A) *to* (F)]

(G) a zero bracket allowance which shall be an amount equal to one exemption unless (i) he is married (as determined under section 143) and his spouse is an employee receiving wages subject to withholding or (ii) he has withholding exemption certificates in effect with respect to more than one employer.

For purposes of this title, any zero bracket allowance under subparagraph (G) shall be treated as if it were denominated a withholding exemption.

[*See main edition for text of* (2) *to* (7); (g) *to* (l)]

(m) Withholding allowances based on itemized deductions

(1) General rule

An employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages in a number equal to the number determined by dividing by $750 the excess of—

(A) his estimated itemized deductions, over

(B) an amount equal to $3,200 ($2,200 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a))).

For purposes of this subsection a fraction number shall not be taken into account unless it amounts to one-half or more, in which case it shall be increased to 1.

(2) Definitions

For the purposes of this subsection—

(A) Estimated itemized deductions

The term "estimated itemized deductions" means the aggregate amount which he reasonably expects will be allowable as deductions under chapter 1 (other than the deductions referred to in section 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62 (other than paragraph (13) thereof)) for the estimation year. In no case shall such aggregate amount be greater than the sum of (i) the amount of such deductions (or the zero bracket amount (within the meaning of section 63(d)) reflected in his return of tax under subtitle A for the taxable year preceding the estimation year or (if such a return has not been filed for such preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year, and (ii) the amount of his determinable additional deductions for the estimation year.

(B) Estimated wages

The term "estimated wages" means the aggregate amount which he reasonably expects will constitute wages for the estimation year.

(C) Determinable additional deductions

The term "determinable additional deductions" means those estimated itemized deductions which (i) are in excess of the deductions referred to in subparagraph (A) (or the zero bracket amount) reflected on his return of tax under subtitle A for the taxable year preceding the estimation year, and (ii) are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to cause an increase in the amount of such deductions on the return of tax under subtitle A for the estimation year.

[*See main edition for text of* (D), (3) *and* (4); (n) *to* (p)]

(q) Extension of withholding to certain gambling winnings

[*See main edition for text of* (1) *and* (2)]

(3) Winnings which are subject to withholding

For purposes of this subsection, the term "winnings which are subject to withholding" means proceeds from a wager determined in accordance with the following:

[*See main edition for text of* (A) *and* (B)]

(C) Sweepstakes, wagering pools, certain parimutuel pools, jai alai, and lotteries

Proceeds of more than $1,000 from—

(i) a wager placed in a sweepstakes, wagering pool, or lottery (other than a wager described in subparagraph (B)), or

(ii) a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai if the amount of such proceeds is at least 300 times as large as the amount wagered.

[*See main edition for text of* (4) *to* (7)]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 105, title IV, § 405(a), 91 Stat. 140, 156.)

REFERENCES IN TEXT

Sections 101 and 102 of the Tax Reduction and Simplification Act of 1977, referred to in subsec. (a), is Pub. L. 95-30, §§ 101, 102, May 23, 1977, 91 Stat. 127, which amended sections 1, 3, 21, 42, 57, 63, 143, 161, 172, 211, 402, 441, 443, 511, 584, 613A, 641, 642, 667, 703, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 6014, 6212, 6504, and 6654 of this title and repealed sections 36, 141, 142, 144, and 145 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30, § 105(a), substituted "With respect to wages paid after May 31, 1977, and before January 1, 1979, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1976; except that such tables shall be modified to the extent necessary so that, had they been in effect for all of 1977, they would reflect the full year effect of the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977. With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977" for "With respect to wages paid prior to January 1, 1978, the tables so prescribed shall be the same as the tables prescribed under this section which were in effect on January 1, 1976. With respect to wages paid after December 31, 1977, the Secretary shall prescribe new tables which shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made to subsections (b) and (c) of section 141 by the Tax Reform Act of 1976".

Subsec. (f)(1). Pub. L. 95-30, § 105(b)(1), substituted "zero bracket" for "standard deduction" in subpar. (G) and in the provisions following subpar. (G).

Subsec. (m)(1)(B). Pub. L. 95-30, § 105(b)(2), substituted "an amount equal to $3,200 ($2,200" for "an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,800 ($2,400".

Subsec. (m)(2)(A). Pub. L. 95-30, § 105(b)(3)(A), (B), substituted "section 151" for "sections 141 and 151" and "(or the zero bracket amount (within the meaning of section 63(d)))" for "(or the amount of the standard deduction)".

Subsec. (m)(2)(C). Pub. L. 95-30, § 105(b)(3)(C), substituted "(or the zero bracket amount)" for "(or the standard deduction)".

Subsec. (q)(3)(C). Pub. L. 95-30, § 405(a), inserted reference to certain parimutuel pools and jai alai in the catchline and, in text, designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 106(b) of Pub. L. 95-30 provided that: "The amendments made by section 105 [amending subsecs. (a), (f)(1), and (m) of this section] shall apply to wages paid after April 30, 1977."

Section 405(b) of Pub. L. 95-30 provided that: "The amendments made by this section [amending subsec. (q)(3)(C) of this section] apply to payments made after April 30, 1977."

FAILURE TO DEDUCT AND WITHHOLD UNDER A DUTY CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Section 304 of Pub. L. 95-30 provided that: "No person shall be liable in respect of any failure to deduct and withhold under section 3402 of the Internal Revenue Code of 1954 [this section] (relating to income tax collected at source) on remuneration paid before January 1, 1977, to the extent that the duty to deduct and withhold was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94-455]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31, 3401, 3505, 6040, 6051, 6205, 6413, 6682, 7205 of this title; title 42 section 662.

CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

Sec.
3506. Individuals providing companion sitting placement services.

AMENDMENTS

1977—Pub. L. 95-171, § 10(b), Nov. 12, 1977, 91 Stat. 1356, added item 3506.

§ 3506. Individuals providing companion sitting placement services

(a) In general

For purposes of this subtitle, a person engaged in the trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

(b) Definitions

For purposes of this section, the term "sitters" means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

(c) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this section.

(Added Pub. L. 95-171, § 10(a), Nov. 12, 1977, 91 Stat. 1356.)

EFFECTIVE DATE

Section 10(c) of Pub. L. 95-171 provided that: "The amendments made by this section [enacting this section and provision set out as a note under this section] shall apply to remuneration received after December 31, 1974."

UNEMPLOYMENT COMPENSATION OR SOCIAL SECURITY BENEFITS BASED ON SERVICES PERFORMED BEFORE NOVEMBER 12, 1977, UNAFFECTED

Section 10(d) of Pub. L. 95-171 provided that: "The amendments made by this section [enacting this section] shall not be construed as affecting (1) any individual's right to receive unemployment compensation based on services performed before the date of the enactment of this Act [Nov. 12, 1977], or (2) any individual's eligibility for social security benefits to the extent based on services performed before that date [Nov. 12, 1977]."

Subtitle D—Miscellaneous Excise Taxes

CHAPTER 33—FACILITIES AND SERVICES

Subchapter B—Communications

§ 4254. Computation of tax

[*See main edition for text of (a) and (b)*]

(c) Certain State and local taxes not included

For purposes of this subchapter, in determining the amounts paid for communications services, there shall not be included the amount of any State or local tax imposed on the furnishing or sale of such services, if the amount of such tax is separately stated in the bill.

(As amended Nov. 12, 1977, Pub. L. 95-172, § 2(a), 91 Stat. 1358.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-172 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2(b) of Pub. L. 95-172 provided that: "The amendment made by this section [enacting subsec. (c) of this section] shall take effect only with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than 20 days after the date of the enactment of this Act [Nov. 12, 1977]. For purposes of the preceding sentence, in the case of communications services rendered more than 2 months before the effective date provided in the preceding sentence, no bill shall be treated as having been first rendered on or after such effective date."

CHAPTER 42—PRIVATE FOUNDATIONS

§ 4941. Taxes on self-dealing

APPLICABILITY TO DETERMINATION OF STATUS AS SUBSTANTIAL CONTRIBUTOR FOR PURPOSES OF TAXES ON SELF-DEALING OF CONTRIBUTIONS MADE PRIOR TO OCTOBER 9, 1969

Determination of status as substantial contributor within section 507(d)(2) of this title for purposes of applying this section, see section 3 of Pub. L. 95-170, set out as a note under section 507 of this title.

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

Subchapter A—Gallonage and Occupational Taxes

PART I—GALLONAGE TAXES

SUBPART A—DISTILLED SPIRITS

§ 5003. Cross references to exemptions, etc.

[*See main edition for text of (1) to (8)*]

(9) For provisions authorizing withdrawal of distilled spirits without payment of tax to customs bonded warehouses for export, see section 5522(a) and section 5214(a)(9).

[*See main edition for text of (10) to (13)*]

(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10).

[*See main edition for text of (15)*]

(As amended Pub. L. 95-176, §§ 3(c), 4(f), Nov. 14, 1977, 91 Stat. 1365, 1366.)

AMENDMENTS

1977—Par. (9). Pub. L. 95-176, § 3(c), struck out "manufacturing" after "customs" and inserted reference to section 5214(a)(9).

Par. (14). Pub. L. 95-176, § 4(f), substituted "withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10)" for "removal of samples free of tax for making tests or laboratory analyses, see section 5214(a)(9)".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7 of Pub. L. 95-176 provided that: "The amendments made by this Act [enacting sections 5008(f)(5), 5178(a)(3)(D), 5207(a)(10), and 5214(a)(10), (b)(7) of this title, amending sections 5003(9), (14), 5004(a)(2)(B), (C), 5005(d), (e), 5008(d), 5025(b), (e)(7), 5062(b), 5066(a)(1), 5175(a), 5205(c)(2), 5214(a)(9), 5215, and 5234(a)(2) of this title, and redesignating as section 5207(a)(11) former section 5207(a)(10) of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Nov. 14, 1977]."

§ 5004. Lien for tax

(a) Distilled spirits subject to lien

[*See main edition for text of (1)*]

(2) Exceptions

The lien imposed by paragraph (1), or any similar lien imposed on the spirits under prior provisions of internal revenue law, shall terminate in the case of distilled spirits produced on premises qualified under internal revenue law for the production of distilled spirits when such distilled spirits are—

(A) withdrawn from bonded premises on determination of tax; or

(B) withdrawn from bonded premises free of tax under provisions of section 5214(a)(1), (2), or (3), or section 7510; or

(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development, or testing, as provided by law.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 95-176, § 4(c), Nov. 14, 1977, 91 Stat. 1366.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-176 struck out in subpar. (B) reference to par. (9) of section 5214(a), and in subpar. (C) substituted "a customs bonded warehouse" for "customs manufacturing bonded warehouses" and provided for termination of the lien for tax when the distilled spirits are used in certain research, development, or testing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(2)(B), (C) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Ef-

fective Date of 1977 Amendment note under section 5003 of this title.

§ 5005. Persons liable for tax

[*See main edition for text of (a) to (c)*]

(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), or (3), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax

(1) Liability for tax

Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), or (10), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability

All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

[*See main edition for text of (f)*]

(As amended Pub. L. 95-176, § 4(b), (d), Nov. 14, 1977, 91 Stat. 1366.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-176, § 4(d)(1), struck out reference to par. (9) of section 5214(a).

Subsec. (e)(1). Pub. L. 95-176, § 4(d)(2), inserted reference to pars. (9) and (10) of section 5214(a).

Subsec. (e)(2). Pub. L. 95-176, § 4(b), substituted "customs bonded warehouses" for "customs manufacturing bonded warehouses" and provided for relief from liability for tax on distilled spirits used in certain research, development, or testing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (d) and (e) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

§ 5008. Abatement, remission, refund, and allowance for loss or destruction of distilled spirits

[*See main edition for text of (a) to (c)*]

(d) Distilled spirits returned to bonded premises

(1) General

Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate, remit, or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

(2) Distilled spirits returned to bonded premises for storage pending exportation

Whenever any distilled spirits are returned under section 5215(b) to the bonded premises of a distilled spirits plant, the Secretary shall (without interest) credit or refund the internal revenue tax found to have been paid or determined with respect to such distilled spirits. Such amount of tax shall be the same amount which would be allowed as a drawback under section 5062(b) on the exportation of such distilled spirits.

(3) Distilled spirits stamped and labeled as bottled in bond

Whenever any distilled spirits are returned under section 5215(c) to the bonded premises of a distilled spirits plant, the Secretary shall (without interest) credit or refund the tax imposed under section 5001(a)(1) on the spirits so returned.

(4) Limitation

No allowance under paragraph (1), (2), or (3) shall be made unless a claim is filed under such regulations as the Secretary may prescribe, by the proprietor of the distilled spirits plant to which the distilled spirits are returned within 6 months of the date of return.

[*See main edition for text of (e)*]

(f) Distilled spirits withdrawn without payment of tax

The provisions of subsection (a) shall be applicable to loss of distilled spirits occurring during transportation from bonded premises of a distilled spirits plant to—

(1) the port of export, in case of withdrawal under section 5214(a)(4);

(2) the customs manufacturing bonded warehouse, in case of withdrawal under section 5214(a)(6);

(3) the vessel or aircraft, in case of withdrawal under section 5214(a)(7);

(4) the foreign-trade zone, in case of withdrawal under section 5214(a)(8); and

(5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a)(9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from bonded premises without payment of tax under section 5214(a)(10) for certain research, development, or testing, until such distilled spirits are used as provided by law.

[*See main edition for text of (g) and (h)*]

(As amended Pub. L. 95-176, §§ 2(f), 4(e), Nov. 14, 1977, 91 Stat. 1364, 1366.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-176, § 2(f), reenacted par. (1) and substituted therein the heading "General" for "Allowance of tax" and "(or the tax equal to such tax imposed under section 7652)" for "or under section 7652"; added pars. (2) and (3); and redesignated as par. (4) provisions of former par. (2), inserting therein reference to allowance of claims under par. (2) or (3).

Subsec. (f)(5). Pub. L. 95-176, § 4(e), added par. (5).

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (f)(5) and amendment of subsec. (d) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SUBPART B—RECTIFICATION

§ 5025. Exemption from rectification tax

[*See main edition for text of (a)*]

(b) Production of gin and vodka

The tax imposed by section 5021 shall not apply to gin produced on bottling premises of distilled spirits plants by the redistillation of a pure spirit over juniper berries and other natural aromatics, or the extracted oils of such, or to vodka produced on bottling premises of distilled spirits plants from pure spirits in the manner authorized on bonded premises of distilled spirits plants.

[*See main edition for text of (c) and (d)*]

(e) Mingling of distilled spirits

Sections 5021, 5081, and 5082 shall not apply to—

[*See main edition for text of (1) to (6)*]

(7) the mingling on bonded premises of distilled spirits as authorized by section 5234(a)(2).

[*See main edition for text of (f) to (m)*]

(As amended Pub. L. 95-176, §§ 5(b), 6, Nov. 14, 1977, 91 Stat. 1366, 1367.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-176, § 6, exempted from the rectification tax production of gin from extracted oils of natural aromatics.

Subsec. (e)(7). Pub. L. 95-176, § 5(b), struck out "for further storage in bond" after "distilled spirits".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (b) and (e)(7) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SUBPART E—GENERAL PROVISIONS

§ 5062. Refund and drawback in case of exportation

[*See main edition for text of (a)*]

(b) Drawback

On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary.

[*See main edition for text of (c)*]

(As amended Pub. L. 95-176, § 1, Nov. 14, 1977, 91 Stat. 1363.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-176 substituted in first sentence "manufactured, produced, bottled, or packaged in casks or other bulk containers" and "other bulk container" for "manufactured or produced" and "package" and in last sentence "spirits and wines eligible for drawback under this subsection, including the requirements" for "domestic distilled spirits and wines, including the requirement".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (b) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5009, 5066, 5215 of this title.

§ 5066. Distilled spirits for use of foreign embassies, legations, etc.

(a) Entry into customs bonded warehouses

(1) Bottled distilled spirits withdrawn from bonded premises

Under such regulations as the Secretary may prescribe, distilled spirits bottled in bond for export under the provisions of section 5233, or bottled distilled spirits returned to bonded premises under section 5215(b), may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b). For the purposes of this chapter, the withdrawal of distilled spirits from bonded premises under the provisions of this paragraph shall be treated as a withdrawal for exportation and all provisions of law applicable to distilled spirits withdrawn for exportation under the provisions of section 5214(a)(4) shall apply with respect to spirits withdrawn under this paragraph.

[*See main edition for text of (2) and (3); (b) to (d)*]

(As amended Pub. L. 95-176, § 2(d), Nov. 14, 1977, 91 Stat. 1364.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-176 substituted par. (1) heading "Bottled distilled spirits withdrawn from bonded premises" for "Distilled spirits bottled in bond for export" and authorized withdrawal of bottled distilled spirits returned to bonded premises under section 5215(b) as provided in section 5214(a)(4).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(1) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5214 of this title.

Subchapter B—Qualification Requirements for Distilled Spirits Plants

§ 5175. Export bonds

(a) Requirements

No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse for storage therein pending exportation, without payment of tax unless the exporter has furnished bond to cover such withdrawal under such regulations and conditions, and in such form and penal sum, as the Secretary may prescribe.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 95-176, § 3(b), Nov. 14, 1977, 91 Stat. 1365.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-176 required export bonds for withdrawals from bonded premises, without payment of tax, for transfer to a customs bonded warehouse for storage therein pending exportation.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

§ 5178. Premises of distilled spirits plants

(a) Location, construction, and arrangement

[*See main edition for text of (1) and (2)*]

(3) Bonded warehousing facilities

[*See main edition for text of (A) to (C)*]

(D) A proprietor who has established facilities for the storage on bonded premises of distilled spirits under subparagraph (C) may establish a portion of such premises as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b).

[*See main edition for text of (4) and (5); (b) and (c)*]

(As amended Pub. L. 95-176, § 2(b), Nov. 14, 1977, 91 Stat. 1364.)

AMENDMENTS

1977—Subsec. (a)(3)(D). Pub. L. 95-176 added subpar. (D).

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (a)(3)(D) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5202, 5215, 5233, 5235, 5511, 5601 of this title.

Subchapter C—Operation of Distilled Spirits Plants

PART I—GENERAL PROVISIONS

§ 5205. Stamps

[*See main edition for text of (a) and (b)*]

(c) Stamps for containers of distilled spirits withdrawn for exportation

[*See main edition for text of (1)*]

(2) Exportation with benefit of drawback

The Secretary may require any container of distilled spirits bottled or packaged especially for export with benefit of drawback to be stamped by a stamp under such regulations as he may prescribe. This paragraph shall also apply to every container of distilled spirits returned to the bonded premises under the provisions of section 5215(b).

[*See main edition for text of (d) to (i)*]

(As amended Pub. L. 95-176, § 2(c), Nov. 14, 1977, 91 Stat. 1364.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-176 made par. (2) applicable to every container of distilled spirits returned to the bonded premises under the provisions of section 5215(b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (c)(2) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

§ 5207. Records and reports

(a) Records of distillers and bonded warehousemen

Every distiller and every bonded warehouseman shall keep records in such form and manner as the Secretary shall by regulations prescribe of—

[*See main edition for text of (1) to (8)*]

(9) the kind and quantity of denatured distilled spirits removed,

(10) the kind and quantity of distilled spirits returned to bonded premises, and

(11) such additional information as may by regulations be required.

[*See main edition for text of (b) to (e)*]

(As amended Pub. L. 95-176, § 2(e), Nov. 14, 1977, 91 Stat. 1364.)

AMENDMENTS

1977—Subsec. (a)(10). Pub. L. 95-176, § 2(e)(3), added par. (10). Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 95-176, § 2(e)(2), redesignated former par. (10) as (11).

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (a)(10) and redesignation as subsec. (a)(11) of former subsec. (a)(10) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

PART II—OPERATIONS ON BONDED PREMISES

SUBPART A—GENERAL

§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

(a) Purposes

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers—

[*See main edition for text of (1) to (8)*]

(9) without payment of tax, in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b), for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under such regulations and bonds as the Secretary may prescribe; or

(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue.

(b) Cross references

[*See main edition for text of (1) to (6)*]

(7) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066.

(As amended Pub. L. 95-176, §§ 3(a), (d), 4(a), Nov. 14, 1977, 91 Stat. 1365.)

AMENDMENTS

1977—Subsec. (a)(9). Pub. L. 95-176, § 3(a), substituted provisions for withdrawal of distilled spirits from bonded premises without payment of tax where the distilled spirits are bottled in bond for export or are returned to bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse for exportation and requiring the transferred distilled spirits to be entered, stored, and accounted for for prior provision for tax free withdrawals for use as samples in making tests or laboratory analyses.

Subsec. (a)(10). Pub. L. 95-176, § 4(a), added par. (10).

Subsec. (b)(7). Pub. L. 95-176, § 3(d), added par. (7).

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsecs. (a)(10) and (b)(7) and amendment of subsec. (a)(9) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5001, 5002, 5003, 5004, 5005, 5008, 5023, 5025, 5066, 5174, 5205, 5211, 5215, 5244, 5271, 5273, 5275, 5314, 5607 of this title.

§ 5215. Return of tax determined distilled spirits to bonded premises

(a) General

On such application and under such regulations as the Secretary may prescribe, distilled spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such distilled spirits have been added) may be returned to the bonded premises of a distilled spirits plant. Such returned distilled spirits shall be destroyed, denatured, or redistilled, or shall be mingled as authorized in

section 5234(a)(1) (other than subparagraph (C) thereof).

(b) Distilled spirits returned to bonded premises for storage pending exportation

On such application and under such conditions as the Secretary may by regulations prescribe, distilled spirits which would be eligible for allowance of drawback under section 5062(b) on exportation, may be returned by the bottler or packager of such distilled spirits to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged, solely for the purpose of storage pending withdrawal without payment of tax under section 5214(a)(4), (7), (8), or (9), or free of tax under section 7510.

(c) Distilled spirits stamped and labeled as bottled in bond

On such application and under such regulations as the Secretary may prescribe, a proprietor of bonded premises who has bottled distilled spirits under section 5178(a)(4)(A)(ii), which are stamped and labeled as bottled in bond for domestic consumption, may return cases of such bottled distilled spirits to appropriate storage facilities on the bonded premises of the distilled spirits plant where bottled for storage pending withdrawal for any purpose for which distilled spirits bottled under section 5178(a)(4)(A)(i) may be withdrawn from bonded premises.

(d) Applicability of chapter to distilled spirits returned to bonded premises

Except as otherwise provided in this section, all provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

(e) Cross references

(1) For provisions relating to the remission, abatement, credit, or refund of tax on distilled spirits returned to bonded premises under this section, see section 5008(d).

(2) For provisions relating to the establishment of an export storage facility on the bonded premises of a distilled spirits plant, see section 5178(a)(3)(D).

(As amended Pub. L. 95-176, § 2(a), Nov. 14, 1977, 91 Stat. 1363.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-176 reenacted existing provisions but deleted last sentence relating to applicability of chapter to distilled spirits returned to bonded premises, now covered in subsec. (d) of this section.

Subsec. (b). Pub. L. 95-176 added subsec. (b). Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 95-176 added subsec. (c).

Subsec. (d). Pub. L. 95-176 redesignated last sentence of former subsec. (a) as subsec. (d) and inserted the introductory phrase "Except as otherwise provided in this section,".

Subsec. (e). Pub. L. 95-176 redesignated former subsec. (b) as par. (1) and added par. (2).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5066, 5178, 5205, 5214, 5223, 5612 of this title.

SUBPART C—STORAGE

§ 5233. Bottling of distilled spirits in bond

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5066, 5178, 5205, 5214, 5232, 5235, 5612 of this title.

§ 5234. Mingling and blending of distilled spirits

(a) Mingling of distilled spirits on bonded premises

[*See main edition for text of (1)*]

(2) Consolidation of packages

Under such regulations as the Secretary shall prescribe, distilled spirits—

(A) of the same kind,

(B) distilled at the same distillery,

(C) distilled by the same proprietor (under his own or any trade name), and

(D) which have been stored in internal revenue bond in the same kind of cooperage for not less than 4 years (or 2 years in the case of rum or brandy),

may, within 20 years of the date of original entry for deposit of the spirits, be mingled on bonded premises. Where distilled spirits produced in different distilling seasons are mingled under this paragraph, the mingled spirits shall consist of not less than 10 percent of spirits of each such season. No spirits mingled under the provisions of this paragraph shall be again mingled under the provisions thereof until at least one year has elapsed since the last prior mingling. For purposes of this chapter, the date of original entry for deposit of the spirits mingled under the provisions of this paragraph shall be the date of original entry for deposit of the youngest spirits contained in the mingled spirits, and the distilling season of such mingled spirits shall be the distilling season of the youngest spirits contained therein. Notwithstanding any other provisions of law, distilled spirits mingled under this paragraph may be bottled and labeled the same as if such spirits had not been so mingled. No statement claiming or implying age in excess of that of the youngest spirits contained in the mingled spirits shall be made on any stamp or label or in any advertisement.

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95-176, § 5(a), Nov. 14, 1977, 91 Stat. 1366.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-176 struck from the heading "for further storage in bond" after "packages" and "for further storage in bond in as many as necessary of the same packages in which the spirits were stored before consolidation" after "bonded premises" in first sentence.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(2) by Pub. L. 95-176 effective on the first day of the first calendar month begin-

ning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

Subtitle F—Procedure and Administration

CHAPTER 61—INFORMATION AND RETURNS

Subchapter A—Returns and Records

PART II—TAX RETURNS OR STATEMENTS

SUBPART A—GENERAL REQUIREMENT

§ 6011. General requirement of return, statement, or list

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 911 of this title; title 42 section 405.

SUBPART B—INCOME TAX RETURNS

§ 6012. Persons required to make returns of income

(a) General rule

Returns with respect to income taxes under subtitle A shall be made by the following:

(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual described in subparagraph (C))—

(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,950,

(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $3,950, or

(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $4,700, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c).

(C) The exception under subparagraph (A) shall not apply to—

(i) a nonresident alien individual;

(ii) a citizen of the United States entitled to the benefits of section 931;

(iii) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period;

(iv) an individual who has income (other than earned income) of $750 or more and who is described in section 63(e)(1)(D); or

(v) an estate or trust.

[*See main edition for text of (2) to (7)*]

except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary, nonresident alien individuals subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section.

[*See main edition for text of (b) to (d)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 104, 91 Stat. 139.)

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-30 substituted "(other than an individual described in subparagraph (C))" for "(other than an individual referred to in section 142(b))" in the provisions preceding cl. (i), "$2,950" for "$2,450" in cl. (i), "$3,950" for "$2,850" in cl. (ii), and "$4,700" for "$3,600" in cl. (iii).

Subsec. (a)(1)(B). Pub. L. 95-30 re-enacted subsec. (a)(1)(B) without change.

Subsec. (a)(1)(C). Pub. L. 95-30 substituted provisions that the exception under subparagraph (A) shall not apply to a nonresident alien individual, a citizen of the United States entitled to the benefits of section 931, an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, an individual who has income (other than earned income) of $750 or more and who is described in section 63(e)(1)(D), or an estate or trust, for provisions requiring that a return with respect to income taxes under subtitle A be made by every individual having for the taxable year a gross income of $750 or more and to whom section 141(e) (relating to limitations in case of certain dependent taxpayers) applied.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

§ 6013. Joint returns of income tax by husband and wife

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 2, 41, 43, 44, 63, 121, 151, 165, 179, 213, 218, 692, 1244, 6012, 6017, 6072, 6428, 6501, 6511, 6653, 7508 of this title.

§ 6014. Income tax return—Tax not computed by taxpayer

(a) Election by taxpayer

An individual who does not itemize his deductions and who does not have an unused zero bracket amount (determined under section 63(e)), whose gross income is less than $10,000 and includes no income other than remuneration for services performed by him as an employee, dividends or interest, and whose gross income other than wages, as defined in section 3401(a), does not exceed $100, shall at his election not be required to show on the return the tax imposed by section 1. Such election shall be

made by using the form prescribed for purposes of this section. In such case the tax shall be computed by the Secretary who shall mail to the taxpayer a notice stating the amount determined as payable.

(b) Regulations

The Secretary shall prescribe regulations for carrying out this section, and such regulations may provide for the application of the rules of this section—

(1) to cases where the gross income includes items other than those enumerated by subsection (a),

(2) to cases where the gross income from sources other than wages on which the tax has been withheld at the source is more than $100,

(3) to cases where the gross income is $10,000 or more, or

(4) to cases where the taxpayer itemizes his deductions or has an unused zero bracket amount.

Such regulations shall provide for the application of this section in the case of husband and wife, including provisions determining when a joint return under this section may be permitted or required, whether the liability shall be joint and several, and whether one spouse may make return under this section and the other without regard to this section.

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(13), (14), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30, § 101(d)(13), substituted "An individual who does not itemize his deductions and who does not have an unused zero bracket amount (determined under section 63(e)), whose gross income" for "An individual entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e)) whose gross income" and struck out "and shall constitute an election to take the standard deduction" following "Such election shall be made by using the form prescribed for purposes of this section".

Subsec. (b)(4). Pub. L. 95-30, § 101(d)(14), substituted "itemizes his deductions or has an unused zero bracket amount" for "does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provision of section 141(e) (relating to limitations in case of certain dependent taxpayers)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6151, 6211 of this title.

PART III—INFORMATION RETURNS

SUBPART C—INFORMATION REGARDING WAGES PAID EMPLOYEES

§ 6051. Receipts for employees

(a) Requirement

Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

[*See main edition for text of (1) to (6)*]

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a). The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111.

[*See main edition for text of (b) to (e)*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 317(b)(3), 91 Stat. 1540.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216 directed that the amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111.

PART V—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

§ 6072. Time for filing income tax returns

[*See main edition for text of (a) to (d)*]

[(e) Repealed. Pub. L. 94-455, title X, § 1053(d)(3), Oct. 4, 1976, 90 Stat. 1649]

(As amended Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(d)(3), 90 Stat. 1649.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-455, § 1053(d)(3), struck out subsec. (e) which related to income tax due dates postponed in the case of China Trade Act corporations.

EFFECTIVE DATE OF 1976 AMENDMENT

Repeal of subsec. (e) by section 1053(d)(3) of Pub. L. 94-455 effective with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94-455 set out as an Effective Date of 1976 Amendment note under section 116 of this title.

PART VII—PLACE FOR FILING RETURNS OR OTHER DOCUMENTS

§ 6091. Place for filing returns or other documents

[*See main edition for text of* (*a*)]

(b) Tax returns

In the case of returns of tax required under authority of part II of this subchapter—

[*See main edition for text of* (*1*)]

(2) Corporations

[*See main edition for text of* (*A*)]

(B) Exception

Returns of—

(i) corporations which have no principal place of business or principal office or agency in any internal revenue district,

(ii) corporations which claim the benefits of section 922 (relating to special deduction for Western Hemisphere trade corporations) or section 936 (relating to possession tax credit),

(iii) foreign corporations, and

(iv) corporations with respect to which an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate.

[*See main edition for text of* (*3*) *to* (*5*)]

(As amended Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(d)(4), 90 Stat. 1649.)

AMENDMENTS

1976—Subsec. (b)(2)(B). Pub. L. 94-455, § 1503(d)(4), in cl. (ii), struck out provision which permitted returns of a corporation claiming the benefits of section 941 of this title, relating to the special deduction for China Trade corporations, to be made at such place as the Secretary may designate by regulation.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (b)(2)(B)(ii) by section 1053(d)(4) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94-455 set out as an Effective Date of 1976 Amendment note under section 941 of this title.

PART VIII—DESIGNATION OF INCOME TAX PAYMENTS TO PRESIDENTIAL ELECTION CAMPAIGN FUND

§ 6096. Designation by individuals

[*See main edition for text of* (*a*)]

(b) Income tax liability

For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, and 44B.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-30, title II, § 202(d)(6), May 23, 1977, 91 Stat. 151.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-30 added reference to section 44B.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Amendment of subsec. (b) of this section by section 401(a)(2)(C) of Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, but ceasing to be applicable to taxable years ending after Dec. 31, 1978, see section 401(e) of Pub. L. 94-455, as amended, set out as an Effective Date of 1976 Amendments note under section 42 of this title.

Subchapter B—Miscellaneous Provisions

§ 6103. Confidentiality and disclosure of returns and return information

[*See main edition for text of* (*a*) *to* (*l*)]

(m) Disclosure of taxpayer identity information

(1) Tax refunds

The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims

Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

(3) National Institute for Occupational Safety and Health

Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

[*See main edition for text of (n) to (q)*]

(As amended Dec. 13, 1977, Pub. L. 95-210, § 5, 91 Stat. 1491.)

AMENDMENTS

1977—Subsec. (m). Pub. L. 95-210 changed the statement in the existing provisions describing the Secretary's authority by substituting provisions that the Secretary "may disclose" for provisions under which the Secretary was "authorized to disclose", placed paragraph headings at the beginning of existing pars. (1) and (2), and added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4424, 6104, 6108, 7213, 7217, 8021 of this title; title 29 section 1134; title 31 section 67; title 42 section 432.

CHAPTER 62—TIME AND PLACE FOR PAYING TAX

Subchapter A—Place and Due Date for Payment of Tax

§ 6153. Installment payments of estimated income tax by individuals

REFERENCES IN TEXT

Section 141, referred to in subsec. (g), was repealed by Pub. L. 95-30, title I, § 101(d)(1), May 23, 1977, 91 Stat. 133.

§ 6157. Payment of Federal unemployment tax on quarterly or other time period basis

(a) General rule

Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services which respect to which the person is such an employer for such preceding calendar year (as so determined), and

(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 94-566, title I, § 114(b), Oct. 20, 1976, 90 Stat. 2669.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-566, § 114(b) changed the general rule covering payment of Federal unemployment tax on a quarterly or other time period basis to conform to the altered definitions of employment and wages pertaining to domestic and agricultural service in section 3306 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by section 114(b) of Pub. L. 94-566 effective with respect to remuneration paid after Dec. 31, 1977, for services performed after that date, see section 114(c) of Pub. L. 94-566 set out as an Effective Date of 1976 Amendment note under section 3306 of this title.

§ 6158. Installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act amendments of 1970

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1103, 6601 of this title.

CHAPTER 63—ASSESSMENT

Subchapter A—In General

§ 6201. Assessment authority

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, and before Jan. 1, 1979, see section 209(b) of Pub. L. 94-12, as amended, set out as an Effective and Termination Dates of 1975 Amendments note under section 43 of this title.

Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

§ 6212. Notice of deficiency

[*See main edition for text of (a) and (b)*]

(c) Further deficiency letters restricted

[*See main edition for text of (1)*]

(2) Cross references

For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of—

(A) Deficiency attributable to change of treatment with respect to itemized deductions and zero bracket amount, see section 63(g)(5).

[*See main edition for text of (B) to (E)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(15), 91 Stat. 134.)

AMENDMENTS

1977—Subsec. (c)(2)(A). Pub. L. 95-30 substituted "change of treatment with respect to itemized deductions and zero bracket amount, see section 63(g)(5)" for "change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a)

of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

CHAPTER 64—COLLECTION

Subchapter A—General Provisions

§ 6302. Mode or time of collection

[*See main edition for text of (a) and (b)*]

(c) Use of Government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

(As amended Oct. 28, 1977, Pub. L. 95-147, § 3(a), 91 Stat. 1228.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-147 substituted ", trust companies, domestic building and loan associations, or credit unions" for "or trust companies" and ", trust companies, domestic building and loan associations, and credit unions" for "and trust companies".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(c) of Pub. L. 95-147 provided that: "The amendments made by this section [amending this section and section 7502 of this title] shall apply to amounts deposited after the date of the enactment of this Act [Oct. 28, 1977]."

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter A—Procedure in General

§ 6401. Amounts treated as overpayments

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, and before Jan. 1, 1979, see section 209(b) of Pub. L. 94-12, as amended, set out as an Effective and Termination Dates of 1975 Amendments note under section 43 of this title.

§ 6406. Prohibition of administrative review of decisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6611 of this title; title 31 section 67.

Subchapter B—Rules of Special Application

§ 6411. Tentative carryback adjustments

(a) Application for adjustment

A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), by a new employee credit carryback provided in section 53(c), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, or unused new employee credit, from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback, a work incentive program carryback, or a new employee credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback (or, in the case of a work incentive program carryback, to an investment credit carryback, or, in the case of a new employee credit carryback, to an investment credit carryback or a work incentive program carryback) from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of net operating loss, net capital loss, unused investment credit, unused work incentive program credit, or unused new employee credit;

[*See main edition for text of (2) to (6)*]

An application under this subsection shall not constitute a claim for credit or refund.

(b) Allowance of adjustments

Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, or unused new employee credit from which such carryback results, whichever is the later, the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year im-

mediately preceding the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, or unused new employee credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) Consolidated returns

If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, or unused new employee credit arises, loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(As amended May 23, 1977, Pub. L. 95-30, title II, § 202(d)(5)(A), 91 Stat. 150.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30, § 202(d)(5)(A)(i) to (iv), added references to unused new employee credits and to new employee credit carrybacks in the provisions preceding par. (1) and in par. (1).

Subsecs. (b), (c). Pub. L. 95-30, § 202(d)(5)(A)(i), added references to unused new employee credits.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

CHAPTER 66—LIMITATIONS

Subchapter A—Limitations on Assessment and Collection

§ 6501. Limitations on assessment and collection

[*See main edition for text of (a) to (l)*]

(m) Tentative carryback adjustment assessment period

In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback adjustments) by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, a work incentive program carryback, or a new employee credit carryback to a prior taxable year, the period described in subsection (a) of this section for assessing a deficiency for such prior taxable year shall be extended to include the period described in subsection (h), (j), (o), or (p), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h), (j), (o), or (p) as the case may be.

[*See main edition for text of (n) and (o)*]

(p) New employee credit carrybacks

In the case of a deficiency attributable to the application to the taxpayer of a new employee credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused new employee credit which results in such carryback may be assessed, or, with respect to any portion of a new employee credit carryback from a taxable year attributable to a net operating loss carryback, an investment credit carryback, a work incentive program credit carryback, or a capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

(As amended May 23, 1977, Pub. L. 95-30, title II, § 202(d)(4)(A), (5)(B), 91 Stat. 149, 151.)

AMENDMENTS

1977—Subsec. (m). Pub. L. 95-30, § 202(d)(5)(B), added references to new employee credit carrybacks and to subsec. (p).

Subsec. (p). Pub. L. 95-30, § 202(d)(4)(A), added subsec. (p).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

§ 6504. Cross references

For limitation period in case of—

(1) Adjustments to accrued foreign taxes, see section 905(c).

(2) Change of treatment with respect to itemized deductions and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5).

[*See main edition for text of (3) to (11)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 101(d)(16), 91 Stat. 134.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-30 substituted "treatment with respect to itemized deductions and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5)" for "election with respect to the standard deduction where taxpayer and his spouse make separate returns, see section 144(b)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

Subchapter B—Limitations on Credit or Refund

§ 6511. Limitations on credit or refund

[*See main edition for text of (a) to (c)*]

(d) Special rules applicable to income taxes

[*See main edition for text of (1) to (8)*]

(9) Special period of limitation with respect to new employee credit carrybacks

(A) Period of limitations

If the claim for credit or refund relates to an overpayment attributable to a new employee credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused new employee credit which results in such carryback (or, with respect to any portion of a new employee credit carryback from a taxable year attributable to a net operating loss carryback, an investment credit carryback, a work incentive program credit carryback, or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules

If the allowance of a credit or refund of an overpayment of tax attributable to a new employee credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final shall not be conclusive with respect to the new employee credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[*See main edition for text of (e) to (g)*]

(As amended May 23, 1977, Pub. L. 95-30, title II, § 202(d)(4)(B), 91 Stat. 149.)

AMENDMENTS

1977—Subsec. (d)(9). Pub. L. 95-30 added subsec. (d)(9).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

CHAPTER 67—INTEREST

Subchapter A—Interest on Underpayments

§ 6601. Interest on underpayment, nonpayment, or extensions of time for payment, of tax

[*See main edition for text of (a) to (c)*]

(d) Income tax reduced by carryback or adjustment for certain unused deductions

[*See main edition for text of (1) to (4)*]

(5) New employee credit carryback

If the credit allowed by section 44B for any taxable year is increased by reason of a new employee credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the new employee credit carryback arises, or, with respect to any portion of a new employee credit carryback from a taxable year attributable to a net operating loss carryback, an investment credit carryback, a work incentive program credit carryback, or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

[*See main edition for text of (e) to (k)*]

(As amended May 23, 1977, Pub. L. 95-30, title II, § 202(d)(4)(C), 91 Stat. 150.)

AMENDMENTS

1977—Subsec. (d)(5). Pub. L. 95-30 added subsec. (d)(5).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

INTEREST NOT PAYABLE ON UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Section 305 of Pub. L. 95-30 provided that: " No interest shall be payable for any period before April 16, 1977 (March 16, 1977, in the case of a corporation), on any underpayment of a tax imposed by the Internal Revenue Code of 1954, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94-455]."

Subchapter B—Interest on Overpayments

§ 6611. Interest on overpayments

[*See main edition for text of (a) to (e)*]

(f) Refund of income tax caused by carryback or adjustment for certain unused deductions

[*See main edition for text of (1) to (4)*]

(5) New employee credit carryback

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a new employee credit carryback, such overpayment shall be deemed not to have been made before the close of the taxable year in which such new employee credit carryback arises, or, with respect to any portion of a new employee credit carryback from a taxable year attributable to a net operating loss carryback, an investment credit carryback, a work incentive program credit carryback, or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the close of such subsequent taxable year.

[*See main edition for text of (g) and (h)*]

(As amended May 23, 1977, Pub. L. 95-30, title II, § 202(d)(4)(D), 91 Stat. 150.)

AMENDMENTS

1977—Subsec. (f)(5). Pub. L. 95-30 added subsec. (f)(5).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

Subchapter A—Additions to the Tax and Additional Amounts

§ 6654. Failure by individual to pay estimated income tax

[*See main edition for text of (a) to (c)*]

(d) Exception

Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

[*See main edition for text of (1)*]

(2) An amount equal to 80 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402(a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

(A) The taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

[*See main edition for text of (B), (3) and (4); (e) to (g)*]

(As amended May 23, 1977, Pub. L. 95-30, title I, § 102(b)(16), 91 Stat. 139.)

AMENDMENTS

1977—Subsec. (d)(2)(A). Pub. L. 95-30 substituted provisions directing that the placement of taxable income on an annualized basis be accomplished under regulations prescribed by the Secretary for provisions which had spelled out in detail the formula under which taxable income would be placed on an annualized basis.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as an Effective Date of 1977 Amendment note under section 1 of this title.

ESTIMATED TAX UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Section 303 of Pub. L. 95-30 provided that: "No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 (relating to failure to pay estimated income tax) for any period before April 16, 1977 (March 16, 1977, in the case of a taxpayer subject to section 6655), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94-455]."

CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

§ 7122. Compromises

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 63, 453, 1311, 1481, 6013, 6103, 6325, 6511, 6521, 7206, 7809 of this title.

CHAPTER 76—JUDICIAL PROCEEDINGS

Subchapter C—The Tax Court

PART I—ORGANIZATION AND JURISDICTION

§ 7443. Membership

CERTIFICATE BY JUDGE OF TRAVELING EXPENSES

Repeated by Pub. L. 95-81, title IV, § 401, July 31, 1977, 91 Stat. 352.

CHAPTER 77—MISCELLANEOUS PROVISIONS

§ 7502. Timely mailing treated as timely filing and paying

[*See main edition for text of (a) to (d)*]

(e) Mailing of deposits

(1) Date of deposit

If any deposit required to be made (pursuant to regulations prescribed by the Secretary under section 6302(c)) on or before a prescribed date is, after such date, delivered by the United States mail to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit, such deposit shall be deemed received by such bank, trust company, domestic building and loan association, or credit union on the date the deposit was mailed.

(2) Mailing requirements

Paragraph (1) shall apply only if the person required to make the deposit establishes that—

[*See main edition for text of (A)*]

(B) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit.

In applying subsection (c) for purposes of this subsection, the term "payment" includes "deposit", and the reference to the postmark date refers to the date of mailing.

(As amended Oct. 28, 1977, Pub. L. 95-147, § 3(b), 91 Stat. 1228.)

Amendments

1977—Subsec. (e). Pub. L. 95-147 substituted ", trust company, domestic building and loan association, or credit union" for "or trust company" in three places.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-147 shall apply to amounts deposited after Oct. 28, 1977, see section 3(c) of Pub. L. 95-147, set out as an Effective Date of 1977 Amendment note under section 6302 of this title.

§ 7510. Exemption from tax of domestic goods purchased for the United States

Section Referred to in Other Sections

This section is referred to in sections 5001, 5002, 5003, 5004, 5005, 5023, 5025, 5174, 5214, 5215 of this title.

CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter D—Possessions

§ 7651. Administration and collection of taxes in possessions

Compensation to Guam and Virgin Islands for Unexpected Revenue Losses Occasioned by Tax Reduction Act of 1975 and Tax Reform Act of 1976

Pub. L. 95-134, title IV, § 402, Oct. 15, 1977, 91 Stat. 1163, provided that: "In order to compensate the territories of Guam and the Virgin Islands for unexpected revenue losses occasioned by the Tax Reduction Act of 1975 [Pub. L. 94-12, Mar. 29, 1975, 89 Stat. 26, see Tables volume] and the Tax Reform Act of 1976 [Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1525, see Tables volume] there is hereby authorized to be appropriated to the Secretary for grants to the government of Guam not to exceed $15,000,000 and after October 1, 1977, for grants to the government of the Virgin Islands not to exceed $14,000,000, such sums being in addition to those previously authorized for such purposes."

Payments to Government of American Samoa, Guam, and the Virgin Islands

Pub. L. 95-30, title IV, § 407, May 23, 1977, 91 Stat. 156, provided that:

"(a) The Secretary of the Treasury is authorized to make separate payments to the government of American Samoa, the government of Guam, and the government of the Virgin Islands. The payment to the government of a particular possession shall be in an amount equal to the loss to that possession with respect to tax returns for the first taxable year beginning after December 31, 1976, by reason of sections 101 and 102 of this Act [amending sections 1, 3, 21, 42, 57, 63, 143, 161, 172, 211, 402, 441, 443, 511, 584, 613A, 641, 642, 667, 703, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 6014, 6212, 6504, and 6654 of this title and repealing sections 36, 141, 142, 144 and 145 of this title]. Such amount shall be determined by the Secretary of the Treasury upon certification to the Secretary by the United States Government Comptrollers for Guam and the Virgin Islands.

"(b) There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section."

CHAPTER 79—DEFINITIONS

§ 7701. Definitions

Transfer of Functions

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

This title was enacted by act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 48 sections 1694, 1694c.

PART I—ORGANIZATION OF COURTS

EX. ORD. NO. 11992. COMMITTEE ON SELECTION OF FEDERAL JUDICIAL OFFICERS

Ex. Ord. No. 11992, May 24, 1977, 42 F.R. 27195, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. *Establishment of the Committee.* There is hereby established the Committee on Selection of Federal Judicial Officers, hereinafter referred to as the Committee. The Committee shall consist of a Chairman and six other members to be appointed by the President.

SEC. 2. *Functions.* When requested by the President, the Committee shall conduct inquiries to identify persons who may be qualified to serve as Federal judicial officers, other than United States Circuit Judges or District Judges, and shall conduct investigations of those persons to determine their qualifications.

SEC. 3. *Procedures; Report.* (a) When notified by the President that he desires its assistance in filling a Federal judicial vacancy, other than a United States Circuit Court or District Court vacancy, the Committee shall conduct inquiries to identify persons who may be qualified to serve in the position and shall conduct further inquiries to determine those persons' qualifications.

(b) In conducting its inquiries the Committee shall follow any procedures established by the President in his letter of notification or by the Attorney General acting on behalf of the President.

(c) The Committee shall submit to the President and to the Attorney General, within 60 days from the date it is notified by the President that he desires its assistance, a report listing the names of no more than five persons whom the Committee considers well qualified to serve in the position. In determining which persons are well qualified the Committee shall apply criteria established by the President or by the Attorney General acting on behalf of the President.

(d) The Committee shall conduct such additional inquiries and submit such additional reports as may be requested by the President.

(e) The Committee shall perform no function except when requested by the President to assist him in filling a vacancy.

SEC. 4. *Ineligibility of Committee Members.* No member of the Committee shall be eligible to be nominated to fill a position as a Federal judicial officer with respect to which the Committee's assistance has been requested.

SEC. 5. *Cooperation by Executive Agencies.* The Committee is authorized to request, through its Chairman, from any Executive department or agency such information or assistance as the Committee deems necessary to carry out its functions under this Order. Each department or agency shall, to the extent permitted by law, furnish such information or assistance to the Committee. The Committee also is authorized to request from any State agency such information and assistance as the Committee deems necessary, and to obtain such information and assistance to the extent permitted by State law.

SEC. 6. *Travel Expenses; Administrative Support; Financing.* (a) Members of the Committee shall serve without compensation. While engaged in the work of the Committee, members may receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

(b) The Attorney General shall furnish to the Committee necessary staff, supplies, facilities and other administrative services.

(c) All necessary expenses incurred in connection with the work of the Committee, to the extent permitted by law, shall be paid from funds available to the Attorney General.

SEC. 7. *Federal Advisory Committee Act Functions.* Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Committee, shall be performed by the Attorney General in accordance with the guidelines and procedures established by the Office of Management and Budget.

SEC. 8. *Termination of the Committee.* The Committee shall terminate on December 31, 1978, unless sooner extended.

JIMMY CARTER.

CHAPTER 3—COURTS OF APPEALS

§ 44. Appointment, tenure, residence and salary of circuit judges

EX. ORD. NO. 11972. UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Ex. Ord. No. 11972, Feb. 14, 1977, 42 F.R. 9659, as amended by Ex. Ord. No. 11993, May 24, 1977, 42 F.R. 27197, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

* * * * *

SEC. 3. *Functions of Panels.* (a) A panel shall begin functioning when the President notifies its Chairman that he desires the panel's assistance in aid of his constitutional responsibility and discretion to select a nominee to fill a vacancy on a United States Court of Appeals. Upon such notification, the panel shall:

(1) Give public notice of the vacancy within the relevant geographic area, inviting suggestions as to potential nominees;

(2) Conduct inquiries to identify potential nominees;

(3) Conduct inquiries to identify those persons among the potential nominees who are well-qualified to serve as a United States Circuit Judge; and

(4) Report in confidence to the President, within sixty days after the notification of the vacancy, the results of its activities, including its recommendations as to the five persons whom the panel considers best qualified to fill the vacancy.

(b) The Panel for the District of Columbia Circuit shall have the additional function of recommending nominees for the United States District Court for the District of Columbia, in accordance with the standards and procedures prescribed by this order for recommending nominees for circuit judges.

* * * * *

CHAPTER 5—DISTRICT COURTS

§ 142. Accommodations at places for holding court

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where regular terms of court are authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit. The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

(As amended Nov. 19, 1977, Pub. L. 95-196, 91 Stat. 1420.)

AMENDMENTS

1977—Pub. L. 95-196 added provision that the limitations and restrictions contained in this section not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

§ 451. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 376 of this title; title 2 section 130b; title 5 sections 5537, 8331; title 12 sections 1464, 1730; title 18 sections 4107, 4108.

§ 461. Adjustments in certain salaries

1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR JUSTICES, JUDGES, COMMISSIONERS, AND REFEREES

Pub. L. 95-66, § 1(3), July 11, 1977, 91 Stat. 270, set out as a note under section 5318 of Title 5, Government Organization and Employees, provided that the first adjustment which, but for the enactment of Pub. L. 95-66, would have been made in the salary and rate of pay of justices, judges, commissioners, and referees under this section after July 11, 1977, would not take effect.

PART II—DEPARTMENT OF JUSTICE

CHAPTER 31—THE ATTORNEY GENERAL

Sec.
504a. Associate Attorney General.

AMENDMENTS

1977—Pub. L. 95-139, § 1(b), Oct. 19, 1977, 91 Stat. 1171, added item 504a.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 7192.

§ 504a. Associate Attorney General

The President may appoint, by and with the advice and consent of the Senate, an Associate Attorney General.

(Added Pub. L. 95-139, § 1(a), Oct. 19, 1977, 91 Stat. 1171.)

§ 507. Assistant Attorney General for Administration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1132c-2; title 26 section 7422; title 42 section 3211.

§ 508. Vacancies

[*See main edition for text of* (a)]

(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.

(As amended Pub. L. 95-139, § 2, Oct. 19, 1977, 91 Stat. 1171.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-139 substituted "the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General" for "the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General".

§ 518. Conduct and argument of cases

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2050a; title 29 sections 663, 1132; title 30 section 822; title 42 section 7171.

CHAPTER 35—UNITED STATES ATTORNEYS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 sections 1424b, 1617, 1694.

CHAPTER 37—UNITED STATES MARSHALS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 sections 1424b, 1614, 1694.

PART III—COURT OFFICERS AND EMPLOYEES

CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

§ 604. Duties of Director generally

COMPENSATION OF SECRETARIES AND LAW CLERKS

Pub. L. 95-86, title IV, § 401, Aug. 2, 1977, 91 Stat. 435, provided in part: "That the salaries of secretaries and law clerks to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code, for General Schedule grade (GS) 10 and grade (GS) 12, respectively: *Provided further,* That (exclusive of step increases corresponding with those provided for by chapter 53 of title 5 of the United States Code, post differential and allowances for employees stationed outside the continental United States and in Alaska and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by each of the circuit and district judges shall not exceed $67,119 and $40,760 per annum, respectively, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges, in which case the aggregate salaries shall not exceed $82,643 and $52,283 per annum, respectively: *Provided further,* That the chief judge of each circuit may appoint a senior law clerk to the court at not more than $34,000 per annum, without regard to the limitations referred to above."

Similar provisions were contained in the following act:

July 14, 1976, Pub. L. 94-362, title IV, § 401, 90 Stat. 953.

CHAPTER 43—UNITED STATES MAGISTRATES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 sections 1424b, 1694.

§ 636. Jurisdiction, powers, and temporary assignment

[*See main volume for text of* (*a*) *to* (*e*)]

(f) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code. A magistrate may be assigned by a judge of any United States district court to perform the verification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.

(As amended Oct. 28, 1977, Pub. L. 95-144, § 2, 91 Stat. 1220.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-144 added subsec. (f).

CHAPTER 49—DISTRICT COURTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 sections 1424b, 1694.

CHAPTER 51—COURT OF CLAIMS

§ 792. Commissioners

(a) The Court of Claims may appoint sixteen commissioners who shall be subject to removal by the court and shall devote all their time to the duties of the office. The Court shall designate one of the commissioners to serve at the will of the court as chief commissioner.

[*See main edition for text of* (*b*)]

(As amended July 20, 1977, Pub. L. 95-69, § 3, 91 Stat. 274.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-69 increased the number of commissioners from fifteen to sixteen.

PART IV—JURISDICTION AND VENUE

CHAPTER 81—SUPREME COURT

§ 1254. Courts of appeals; certiorari; appeal; certified questions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2350 of this title; title 2 section 437g; title 5 section 1508; title 7 sections 136n, 194, 2050; title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 sections 21, 29, 45, 57a, 77i, 78aa, 79x, 79y, 80a-42, 80a-43, 80b-13, 687a, 687e, 717r, 1193, 1262, 1394, 1474, 1710, 1719, 1913, 2004, 2060, 2618; title 16 sections 825*l*, 825p; title 19 sections 1641, 2322; title 20 sections 241e-1, 241k, 351d, 585, 827, 844a, 845, 869a, 1070c-3, 1128, 1132a-7, 1207, 1232c, 1263, 1413, 1416, 1806, 2309; title 21 sections 346a, 348, 355, 360g, 371; title 22 section 1631e; title 23 section 131; title 26 sections 3310, 6363, 7482; title 27 section 204; title 29 sections 160, 210, 660, 667, 819; title 30 section 816; title 31 section 1263; title 33 sections 505, 520, 988; title 38 section 784; title 40 section 333; title 42 sections 263a, 263f, 291h, 300s, 504, 1316, 2689*l*, 3025, 3045d, 3414, 3759, 5311, 5405, 6068, 6306, 6869; title 45 section 153; title 47 section 402; title 49 sections 45, 1486, 1675.

§ 1255. Court of Claims; certiorari; certified questions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 70v-3; title 50 App. section 1218a.

CHAPTER 85—DISTRICT COURTS; JURISDICTION

§ 1360. State civil jurisdiction in actions to which Indians are parties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 sections 711e, 1323.

§ 1361. Action to compel an officer of the United States to perform his duty

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 923; title 42 sections 300j-9, 7622.

CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 section 1323; title 39 section 409; title 42 section 7192.

§ 1441. Actions removable generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1332 of this title; title 33 section 1323.

§ 1446. Procedure for removal

[*See main edition for text of* (*a*) *and* (*b*)]

(c)(1) A petition for removal of a criminal prosecution shall be filed not later than thirty days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the petitioner leave to file the petition at a later time.

(2) A petition for removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds which exist at the time of the filing of the petition shall constitute a waiver of such grounds, and a second petition may be filed only on grounds not existing at the time of the original petition. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a petition for removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the petition is first denied.

(4) The United States district court to which such petition is directed shall examine the petition promptly. If it clearly appears on the face of the petition and any exhibits annexed thereto that the petition for removal should not be granted, the court shall make an order for its summary dismissal.

(5) If the United States district court does not order the summary dismissal of such petition, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the petition as justice shall require. If the United States district court determines that such petition shall be granted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

[*See main edition for text of* (*d*)]

(e) Promptly after the filing of such petition for the removal of a civil action and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.

[*See main edition for text of* (*f*)]

(As amended July 30, 1977, Pub. L. 95-78, § 3, 91 Stat. 321.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-78, § 3(a), designated existing provisions as par. (1), set a period of 30 days as the maximum allowable time prior to commencement of trial and following arraignment during which time a petition for removal can be filed, provided for the grant of additional time for good cause shown, and added pars. (2) to (5).

Subsec. (e). Pub. L. 95-78, § 3(b), inserted "for the removal of a civil action" following "filing of such petition".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-78 effective Oct. 1, 1977, see section 4 of Pub. L. 95-78, set out as an Effective Date of Pub. L. 95-78 note under section 3771 of Title 18, Crimes and Criminal Procedure.

CHAPTER 91—COURT OF CLAIMS

§ 1492. Congressional reference cases

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2509 of this title; title 17 section 502.

§ 1498. Patent and copyright cases

[*See main edition for text of* (*a*)]

(b) Hereafter, whenever the copyright in any work protected under the copyright laws of the United States shall be infringed by the United States, by a corporation owned or controlled by the United States, or by a contractor, subcontractor, or any person, firm, or corporation acting for the Government and with the authorization or consent of the Government, the exclusive remedy of the owner of such copyright shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation as damages for such infringement, including the minimum statutory damages as set forth in section 504(c) of title 17, United States Code: *Provided,* That a Government employee shall have a right of action against the Government under this subsection except where he was in a position to order, influence, or induce use of the copyrighted work by the Government: *Provided, however,* That this subsection shall not confer a right of action on any copyright owner or any assignee of such owner with respect to any copyrighted work prepared by a person while in the employment or service of the United States, where the copyrighted work was prepared as a part of the official functions of the employee, or in the preparation of which Government time, material, or facilities were used: *And provided further,* That before such

action against the United States has been instituted the appropriate corporation owned or controlled by the United States or the head of the appropriate department or agency of the Government, as the case may be, is authorized to enter into an agreement with the copyright owner in full settlement and compromise for the damages accruing to him by reason of such infringement and to settle the claim administratively out of available appropriations.

Except as otherwise provided by law, no recovery shall be had for any infringement of a copyright covered by this subsection committed more than three years prior to the filing of the complaint or counterclaim for infringement in the action, except that the period between the date of receipt of a written claim for compensation by the Department or agency of the Government or corporation owned or controlled by the United States, as the case may be, having authority to settle such claim and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as a part of the three years, unless suit is brought before the last-mentioned date.

[*See main edition for text of* (c) *and* (d)]

(As amended Oct. 19, 1976, Pub. L. 94-553, title I, § 105(c), 90 Stat. 2599.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-553 substituted "section 504(c) of title 17" for "section 101(b) of title 17".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (b) by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553 set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

PART V—PROCEDURE

CHAPTER 133—REVIEW—MISCELLANEOUS PROVISIONS

§ 2112. Record on review and enforcement of agency orders

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2346 of this title; title 7 sections 8, 9, 136n, 194, 1115, 1600, 1601; title 12 sections 1464, 1730, 1730a, 1786, 1818, 1848; title 15 sections 21, 45, 57a, 78y, 79x, 80a-42, 80b-13, 687e, 717r, 1193, 1262, 1394, 1474, 1710, 1825, 1913, 2060, 2618; title 16 sections 825*l*, 1858; title 19 sections 81r, 1641; title 20 sections 241e-1, 241k, 351d, 827, 844a, 845, 869a, 1110c, 1207, 1232c, 1263, 1413, 1416, 1806, 2309; title 21 sections 346a, 348, 355, 360g, 371; title 22 section 1631f; title 26 sections 3310, 6363; title 27 section 204; title 29 sections 160, 210, 660, 667, 819; title 30 section 816; title 31 section 1263; title 33 section 921; title 39 section 3628; title 40 section 333; title 42 sections 263a, 263f, 291h, 300s, 504, 1316, 3025, 3045d, 3759, 5311, 5405, 6068, 6306, 6869, 7525; title 43 section 355; title 46 section 1181; title 47 section 402; title 49 section 1486.

PART VI—PARTICULAR PROCEEDINGS

CHAPTER 153—HABEAS CORPUS

Sec.
2256. Jurisdiction of proceedings relating to transferred offenders.[1]

§ 2256. Jurisdiction of proceedings relating to transferred offenders

When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders—

(1) the country in which the offender was convicted shall have exclusive jurisdiction and competence over proceedings seeking to challenge, modify, or set aside convictions or sentences handed down by a court of such country;

(2) all proceedings instituted by or on behalf of an offender transferred from the United States to a foreign country seeking to challenge, modify, or set aside the conviction or sentence upon which the transfer was based shall be brought in the court which would have jurisdiction and competence if the offender had not been transferred;

(3) all proceedings instituted by or on behalf of an offender transferred to the United States pertaining to the manner of execution in the United States of the sentence imposed by a foreign court shall be brought in the United States district court for the district in which the offender is confined or in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings;

(4) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer from the United States shall be brought in the United States district court of the district in which the proceedings to determine the validity of the offender's consent were held and shall name the Attorney General as respondent; and

(5) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer to the United States shall be brought in the United States district court of the district in which the offender is confined or of the district in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings.

(Added Pub. L. 95-144, § 3, Oct. 28, 1977, 91 Stat. 1220.)

[1] Item 2256 is editorially inserted. Section 2256 was enacted by Pub. L. 95-144, § 3, Oct. 28, 1977, 91 Stat. 1220, without amending analysis to include such item.

CHAPTER 158—ORDERS OF FEDERAL AGENCIES; REVIEW

§§ 2341, 2342

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 161—UNITED STATES AS PARTY GENERALLY

§ 2415. Time for commencing actions brought by the United States

(a) Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon any contract express or implied in law or fact, shall be barred unless the complaint is filed within six years after the right of action accrues or within one year after final decisions have been rendered in applicable administrative proceedings required by contract or by law, whichever is later: *Provided,* That in the event of later partial payment or written acknowledgment of debt, the right of action shall be deemed to accrue again at the time of each such payment or acknowledgment: *Provided further,* That an action for money damages brought by the United States for or on behalf of a recognized tribe, band or group of American Indians shall not be barred unless the complaint is filed more than six years and ninety days after the right of action accrued: *Provided further,* That an action for money damages which accrued on the date of enactment of this Act in accordance with subsection (g) brought by the United States for or on behalf of a recognized tribe, band, or group of American Indians, or on behalf of an individual Indian whose land is held in trust or restricted status, shall not be barred unless the complaint is filed after April 1, 1980 or more than two years after a final decision has been rendered in applicable administrative proceedings required by contract or by law, whichever is later.

(b) Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon a tort shall be barred unless the complaint is filed within three years after the right of action first accrues: *Provided,* That an action to recover damages resulting from a trespass on lands of the United States; an action to recover damages resulting from fire to such lands; an action to recover for diversion of money paid under a grant program; and an action for conversion of property of the United States may be brought within six years after the right of action accrues, except that such actions for or on behalf of a recognized tribe, band or group of American Indians, including actions relating to allotted trust or restricted Indian lands, may be brought within six years and ninety days after the right of action accrues, except that such actions for or on behalf of a recognized tribe, band, or group of American Indians, including actions relating to allotted trust or restricted Indian lands, or on behalf of an individual Indian whose land is held in trust or restricted status which accrued on the date of enactment of this Act in accordance with subsection (g) may be brought on or before April 1, 1980.

[*See main edition for text of* (c) *to* (h)]

(As amended Pub. L. 95-64, July 11, 1977, 91 Stat. 268; Pub. L. 95-103, Aug. 15, 1977, 91 Stat. 842.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-103, § 1(a), substituted "after April 1, 1980" for "after August 18, 1977".

Pub. L. 95-64, § 1(a), substituted "unless the complaint is filed after August 18, 1977" for "unless the complaint is filed more than eleven years after the right of action accrued" in the proviso covering actions for money damages brought by the United States for or on behalf of a recognized tribe, band, or group of American Indians, or on behalf of an individual Indian whose land is held in trust or restricted status based upon rights of action which accrued on July 18, 1966, in accordance with subsec. (g).

Subsec. (b). Pub. L. 95-103, § 1(b), substituted "on or before April 1, 1980" for "on or before August 18, 1977".

Pub. L. 95-64, § 1(b), substituted "may be brought on or before August 18, 1977" for "may be brought within eleven years after the right of action accrues" in the proviso covering actions for or on behalf of recognized tribes, bands, or groups of American Indians, including actions related to allotted trust or restricted Indians lands, or on behalf of an individual Indian whose land is held in trust or restricted status based upon rights of action which accrued on July 18, 1966, in accordance with subsec. (g).

CHAPTER 163—FINES, PENALTIES AND FORFEITURES

§ 2464. Security; special bond

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 sections 916g, 958, 959, 971f, 1031, 1100a-1.

CHAPTER 165—COURT OF CLAIMS PROCEDURE

§ 2517. Payment of judgments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2412 of this title; title 16 sections 79g, 460bb-2; title 25 section 70v-3; title 31 section 724a.

§ 2518. Certification of judgments for appropriation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 70v-3; title 31 section 724a.

CHAPTER 171—TORT CLAIMS PROCEDURE

Chapter Referred to in Other Sections

This chapter is referred to in section 1346 of this title; title 2 section 190g; title 5 sections 3373, 3374, 5564; title 16 sections 565a-2, 1703; title 20 section 1105; title 22 section 2504; title 29 sections 926, 993d; title 37 section 554; title 39 section 409; title 42 sections 247b, 5032, 5055; title 46 section 740.

§ 2680. Exceptions

Applicability of Subsec. (j)

Joint Res. July 3, 1952, ch. 570, § 1(a)(32), 66 Stat. 333, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, and Joint Res. June 30, 1953, ch. 172, 67 Stat. 132, provided that subsec. (j) of this section, in addition to coming into full force and effect in time of war, should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of Title 50 Appendix, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond Aug. 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

APPENDIX

RULES OF THE COURT OF CLAIMS OF THE UNITED STATES

As amended to January 1, 1978

Rule 51. Motions and related papers

[*See main edition for text of (a) and (b)*]

(c) *Briefs; memoranda; affidavits.* (1) Any brief, memorandum of law, or affidavits submitted in support of any motion, or in support of any objections or response to a motion, shall be included in or attached to each copy of such motion, objections, or response. Every dispositive motion, as defined in Rule 52(a), shall be supported by the moving party's brief. As to any rule or regulation relied upon, see Rule 124(c).

(2) Briefs relating to dispositive motions shall conform to the pertinent requirements of Rule 144, dealing with the content and length of briefs: *Provided,* That in the case of cross-motions for summary judgment, for purposes of length the objecting or responding brief of the party who filed first shall be treated as a reply brief governed by Rule 144(e)(2).

[*See main edition for text of (d)*]

Rule 161. Applicability of chapter

The ensuing rules in this chapter (Rules 161-68) shall apply to cases founded on contracts containing disputes clauses subject, potentially, to review, in whole or in part, under the terms of the Wunderlich Act (68 Stat. 81, 41 U.S.C. §§ 321-22), and are designed to supplement the other rules of the court, particularly Rules 31-57 (Chapters III and IV, Pleadings and Motions), Rule 101 (Summary Judgment) and Rule 144 (Content of Briefs). To the extent that a party is entitled to relief outside the Wunderlich Act, a trial de novo, if required, on issues of fact shall be held in conformity with appropriate rules in other chapters.

TITLE 29—LABOR

CHAPTER 1—LABOR STATISTICS

§ 7. Repealed. Pub. L. 86-3, §§ 15, 23, Mar. 18, 1959, 73 Stat. 11, 13

Section, acts Apr. 30, 1900, ch. 339, § 76, 31 Stat. 155; Apr. 8, 1904, ch. 948, 33 Stat. 164; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737, directed the United States Commissioner of Labor Statistics to assemble and report on statistical details relating to all departments of labor in the Territory of Hawaii.

CHAPTER 5—LABOR DISPUTES; MEDIATION AND INJUNCTIVE RELIEF

§ 51. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 642

Section, act Mar. 4, 1913, ch. 141, § 8, 37 Stat. 738, related to mediation in labor disputes and the appointment of commissioners of conciliation.

CHAPTER 8—FAIR LABOR STANDARDS

Chapter Referred to in Other Sections

This chapter is referred to in sections 251 to 262, 848, 881 of this title; title 7 sections 2015, 2026; title 15 section 1014; title 38 section 618; title 41 section 355; title 42 section 3056.

§ 201. Short title

Short Title of 1977 Amendment

Pub. L. 95-151, § 1(a), Nov. 1, 1977, 91 Stat. 1245, provided that: "This Act [amending sections 203, 206, 208, 213, 214, and 216 of this title, and enacting provisions set out as notes under sections 203, 204, and 213 of this title] may be cited as the 'Fair Labor Standards Amendments of 1977'."

Short Title of 1949 Amendment

Act Oct. 26, 1949, ch. 736, § 1, 63 Stat. 910, provided: "That this Act [enacting section 216b of this title, amending sections 202 to 208, 211 to 216, and 217 of this title, and repealing section 216a of this title] may be cited as the 'Fair Labor Standards Amendments of 1949'."

§ 203. Definitions

As used in this chapter—

[*See main edition for text of (a) to (r)*]

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means an enterprise which has employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and which—

(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise, other than an enterprise which is comprised exclusively of retail or service establishments and which is described in paragraph (2), whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated);

(2) is an enterprise which is comprised exclusively of one or more retail or service establishments, as defined in section 213(a)(2) of this title, and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1980, whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated), and after December 31, 1981, whose annual gross volume of sales made or business done is not less than $362,500 (exclusive of excise taxes at the retail level which are separately stated);

(3) is engaged in laundering, cleaning, or repairing clothing or fabrics;

(4) is engaged in the business of construction or reconstruction, or both;

(5) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

(6) is an activity of a public agency.

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be consid-

ered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection. The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.

Notwithstanding paragraph (2), an enterprise which is comprised of one or more retail or service establishments, which on June 30, 1978, was subject to section 206(a)(1) of this title, and which because of a change in the dollar volume standard in such paragraph prescribed by the Fair Labor Standards Amendments of 1977 is not subject to such section, shall, if its annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), pay its employees not less than the minimum wage in effect under such section on the day before such change takes effect and shall pay its employees in accordance with section 207 of this title. A violation of the preceding sentence shall be considered a violation of section 206 or 207 of this title, as the case may be.

(t) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.

[*See main edition for text of* (u) *to* (x)]

(As amended Nov. 1, 1977, Pub. L. 95-151, §§ 3(a), 9(a)-(c), 91 Stat. 1249, 1251.)

AMENDMENT OF SUBSECTION (m)

Pub. L. 95-151, § 3(b), Nov. 1, 1977, 91 Stat. 1249, provided that:

"(1) Effective January 1, 1979, section 3(m) (29 U.S.C. 203(m)) [subsec. (m) of this section] is amended by striking out '50 percentum' and inserting in lieu thereof '45 per centum'.

"(2) Effective January 1, 1980, such section [subsec. (m) of this section] is amended by striking out '45 per centum' and inserting in lieu thereof '40 per centum'."

REFERENCES IN TEXT

The Fair Labor Standards Amendments of 1977, referred to in subsec. (s), is Pub. L. 95-151, Nov. 1, 1977, 91 Stat. 1245, which is classified to sections 203, 203 note, 204 note, 206, 208, 213, 213 note, 214, and 216 of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendments note set out under section 201 of this title and Tables.

AMENDMENTS

1977—Subsec. (s). Pub. L. 95-151, § 9(a) to (c), in par. (1) added exception for enterprises comprised exclusively of retail or service establishments and described in par. (2), added par. (2), redesignated former pars. (2) to (5) as (3) to (6), respectively, and in material following par. (6), as so redesignated, added provisions relating to coverage of retail or service establishments subject to section 206(a)(1) of this title on June 30, 1978, and provisions relating to violations of such coverage requirements.

Subsec. (t). Pub. L. 95-151, § 3(a), substituted "$30" for "$20".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(a) of Pub. L. 95-151 provided in part that the amendment of subsec. (t) of this section by section 3(a) of Pub. L. 95-151 is effective Jan. 1, 1978.

Section 15(a), (b) of Pub. L. 95-151 provided that:

"(a) Except as provided in sections 3, 14, and subsection (b) of this section, the amendments made by this Act [amending sections 206, 208, 213(a)(3), (b)(22), (25), (26), (29), (i), (j), and 216 of this title, and enacting provision set out as a note under section 204 of this title] shall take effect January 1, 1978.

"(b) The amendments made by sections 8, 9, 11, 12, and 13 [amending subsec. (s) of this section, and sections 213(a)(2), (3), (c)(1), (4) and 214 of this title] shall take effect on the date of the enactment of this Act [Nov. 1, 1977]."

ADMINISTRATIVE ACTION BY SECRETARY OF LABOR WITH REGARD TO IMPLEMENTATION OF FAIR LABOR STANDARDS AMENDMENTS OF 1977

Section 15(c) of Pub. L. 95-151 provided that: "On and after the date of the enactment of this Act [Nov. 1, 1977], the Secretary of Labor shall take such administrative action as may be necessary for the implementation of the amendments made by this Act [See Short Title of 1977 Amendment note set out under section 201 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 213 of this title; title 7 section 2042; title 26 section 3121; title 49 section 303.

§ 204. Administration

MINIMUM WAGE STUDY COMMISSION; ESTABLISHMENT, PURPOSES, COMPOSITION, ETC.

Pub. L. 95-151, § 2(e), Nov. 1, 1977, 91 Stat. 1246, provided that:

"(1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the 'Commission') which shall conduct a study of the Fair Labor Standards Act of 1938 [this chapter] and the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of that Act. Such study shall include but not be limited to—

"(A) the beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens;

"(B) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

"(C) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

"(D) the economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in a wage, price, or other index;

"(E) the employment and unemployment effects (if any) of providing a different minimum wage rate for youth, and the employment and unemployment effects (if any) on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

"(F) the effect (if any) of the full-time student certification program on employment and unemployment;

"(G) the employment and unemployment effects (if any) of the minimum wage;

"(H) the exemptions from the minimum wage and overtime requirements of that Act;

"(I) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance;

"(J) the overall level of noncompliance with that Act; and

"(K) the demographic profile of minimum wage workers.

"(2) The Commission shall conduct a study concerning the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 [this chapter] may apply to employees of conglomerates, and shall make a report, within one year after the date of the appointment of the members of the Commission of the results of such study. For the purposes of this paragraph a 'conglomerate' means an establishment (A) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employees and (B) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated). The report shall include an analysis of the effects of eliminating the exemptions from the minimum wage and overtime requirements of such Act that may currently apply to the employees of such conglomerates.

"(3) The Commission shall make a report of the results of the study conducted pursuant to paragraph (1) thirty-six months after the date of the appointment of the members of the Commission. The report shall include such recommendations for legislation as the Commission determines are appropriate. The Commission may make interim or additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of the report required by this paragraph.

"(4)(A) The Commission shall consist of eight members as follows:

"(i) Two members appointed by the Secretary of Labor.

"(ii) Two members appointed by the Secretary of Commerce.

"(iii) Two members appointed by the Secretary of Agriculture.

"(iv) Two members appointed by the Secretary of Health, Education, and Welfare.

The appointments authorized under this paragraph shall be made within 180 days after the date of enactment of this subsection [Nov. 1, 1977].

"(B) The Chairperson shall be selected by the members of the Commission. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

"(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

"(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

"(D) The Department of Labor shall furnish such professional, technical, and research assistance as required by the Commission.

"(E) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

"(F) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

"(G) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(6)(A) The Chairperson may appoint an executive director of the Commission who shall perform such duties as the Chairperson may prescribe.

"(B) With approval of the Chairperson, the executive director may appoint and fix the pay of such clerical personnel as are necessary for the Commission to carry out its duties.

"(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

"(D) The executive director, with the concurrence of the Chairperson, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code."

§ 206. Minimum wage

(a) Employees engaged in commerce; home workers in Puerto Rico and Virgin Islands; employees in American Samoa; seamen on American vessels; agricultural employees

Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.10 an hour during the year beginning January 1, 1980, and not less than $3.35 an hour after December 31, 1980, except as otherwise provided in this section;

[*See main edition for text of (2) to (4)*]

(5) if such employee is employed in agriculture, not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977.

(b) Additional applicability to employees pursuant to subsequent amendatory provisions

Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) of this section applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this chapter by the Fair Labor Standards Amendments of 1966; title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or the Fair Labor Standards Amendments of 1974, wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1) of this section.

(c) Wage rates superseded by recommendation of special industry committee

(1) The rate or rates provided by subsection (a)(1) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order (A) heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 205 of this title, and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1) of this section.

(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 208 of this title, and

(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 208 of this title, and

(ii) effective January 1, 1979, and January 1 of each succeeding year—

(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 205 of this title, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.

(3) If the wage rate of an employee is to be increased under this subsection to a wage rate which equals or is greater than the wage rate under subsection (a)(1) of this section which, but for paragraph (1) of this subsection, would be applicable to such employee, this subsection shall be inapplicable to such employee and the applicable rate under subsection (a)(1) of this section shall apply to such employee.

(4) Each minimum wage rate prescribed by or under paragraph (2) shall be in effect unless such minimum wage rate has been superseded by a wage order (issued by the Secretary pursuant to the recommendation of a special industry committee convened under section 208 of this title) fixing a higher minimum wage rate.

[*See main edition for text of (d) to (f)*]

(As amended Nov. 1, 1977, Pub. L. 95-151, § 2(a)-(d)(2), 91 Stat. 1245, 1246.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-151, § 2(a), substituted "not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.10 an hour during the year beginning January 1, 1980, and not less than $3.35 an hour after December 1, 1980" for "not less than $2 an hour during the period ending December 31, 1974, not less than $2.10 an hour during the year beginning January 1, 1975, and not less than $2.30 an hour after December 31, 1975".

Subsec. (a)(5). Pub. L. 95-151, § 2(b), substituted provisions for a minimum wage rate of not less than the minimum wage rate in effect under par. (1) after Dec. 31, 1977, for provisions for a minimum wage rate of not less than $1.60 an hour during the period ending Dec. 31, 1974, $1.80 an hour during the year beginning Jan. 1, 1975, $2 an hour during the year beginning Jan. 1, 1976, $2.20 an hour during the year beginning Jan. 1, 1977, and $2.30 an hour after Dec. 31, 1977.

Subsec. (b). Pub. L. 95-151, § 2(c), substituted provisions for a minimum wage rate, effective after Dec. 31, 1977, of not less than the minimum wage rate in effect under subsec. (a)(1) of this section, for provisions for a minimum wage rate of not less than $1.90 an hour during the period ending Dec. 31, 1974, not less than $2 an hour during the year beginning Jan. 1, 1975, not less than $2.20 an hour during the year beginning Jan. 1, 1976, and not less than $2.30 an hour after Dec. 31, 1976.

Subsec. (c)(1). Pub. L. 95-151, § 2(d)(2)(A), added "(A)" preceding "heretofore" and cl. (B), and substituted "subsection (a)(1)" for "subsections (a) and (b)".

Subsec. (c)(2). Pub. L. 95-151, § 2(d)(1), added subsec. (c)(2). Former subsec. (c)(2), relating to applicability, etc., of wage rate orders effective on the effective date of the Fair Labor Standards Amendments of 1974, and effective on the first day of the second and each subsequent year after such date, was struck out.

Subsec. (c)(3). Pub. L. 95-151, § 2(d)(1), (2)(B), (C), redesignated former subsec. (c)(5) as (c)(3) and, as so redesignated, substituted references to subsec. (a)(1) of this section, for references to subsec. (a) or (b) of this section. Former subsec. (c)(3), relating to appointment of a special industry committee for recommendations with respect to highest minimum wage rates for employees employed in Puerto Rico or the Virgin Islands subject to the amendments to this chapter by the Fair Labor Standards Amendments of 1974, was struck out.

Subsec. (c)(4). Pub. L. 95-151, § 2(d)(1), (2)(B), (D), redesignated former subsec. (c)(6) as (c)(4) and, as so redesignated, struck out "or (3)" following "(2)". Former subsec. (c)(4), relating to wage rates of employees in Puerto Rico or the Virgin Islands subject to the former provisions of subsec. (c)(2)(A) or (3) of this section, was struck out.

Subsec. (c)(5), (6). Pub. L. 95-151, § 2(d)(2)(B), redesignated former subsec. (c)(5) and (6) as (c)(3) and (4), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 205, 207, 208, 213, 214, 215, 216, 218, 821, 848, 895a, 993d of this title; title 5 sections 5343, 5349; title 7 sections 2015, 2026; title 15 section 1673; title 18 section 3575; title 21 section 849; title 26 section 3121; title 38 section 1685; title 41 section 351; title 42 sections 300e-9, 431, 2000e-2, 2930b, 2951, 3056.

§ 207. Maximum hours

[See main edition for text of (a) to (j)]

(k) Employment by public agency engaged in fire protection or law enforcement activities

No public agency shall be deemed to have violated subsection (a) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975; or

(2) in the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

[See main edition for text of (l) to (n)]

(As amended Apr. 8, 1974, Pub. L. 93-259, § 6(c)(1)(D), 88 Stat. 61.)

REFERENCES IN TEXT

Section 6(c)(3) of the Fair Labor Standards Amendments of 1974, referred to in subsec. (k)(1), is Pub. L. 93-259, § 6(c)(3), Apr. 8, 1974, 88 Stat. 61, which is set out as a note under section 213 of this title.

AMENDMENTS

1974—Subsec. (k). Pub. L. 93-259, § 6(c)(1)(D), substituted in par. (1) "exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975" for "exceed 216 hours" and inserted in par. (2) "(or if lower, the number of hours referred to in clause (B) of paragraph (1).")

EFFECTIVE DATE OF 1974 AMENDMENT

Section 6(c)(1) of Pub. L. 93-259 provided in part that amendment of subsec. (k) of this section by section 6(c)(1)(D) of Pub. L. 93-259 shall be effective Jan. 1, 1978.

§ 208. Wage rates in Puerto Rico and the Virgin Islands

(a) Congressional policy; recommendation of wage rate by industry committee

The policy of this chapter with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage rate which would apply in each such industry under paragraph (1) or (5) of section 206(a) of this title but for section 206(c) of this title. The Secretary shall, from time to time, convene an industry committee or committees, appointed pursuant to section 205 of this title, and any such industry committee—

(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 206(c) of this title would be subject to the minimum wage requirements of section 206(a)(1) of this title, and

(2) may, from time to time, recommend increases in the incremental increases authorized by section 206(c)(2) of this title.

The Administrator shall from time to time convene an industry committee or committees, appointed pursuant to section 205 of this title, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 206 of this title by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin

Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the otherwise applicable minimum wage rate in effect under paragraph (1) or (5) of section 206(a) of this title shall be reviewed by such a Committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

[*See main edition for text of (b) to (f)*]

(As amended Nov. 1, 1977, Pub. L. 95-151, § 2(d)(3), 91 Stat. 1246.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-151 added provisions relating to appointment of industry committees by the Secretary and functions of such industry committees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 205, 206, 210 of this title.

§ 213. Exemptions

(a) Minimum wage and maximum hour requirements

The provisions of sections 206 (except subsection (d) in the case of paragraph (1) of this subsection) and section 207 of this title shall not apply with respect to—

[*See main edition for text of (1)*]

(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 203(s)(5) of this title), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 203(s) of this title. A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

(3) any employee employed by an establishment which is an amusement or recreational establishment organized camp, or religious or non-profit educational conference center, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33⅓ per centum of its average receipts for the other six months of such year, except that the exemption from sections 206 and 207 of this title provided by this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than, in the case of the exemption from section 206 of this title, a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture; or

[*See main edition for text of (4) to (15)*]

(b) Maximum hour requirements

The provisions of section 207 of this title shall not apply with respect to—

[*See main edition for text of (1) to (7)*]

(8) any employee (other than an employee of a hotel or motel who performs maid or custodial services) who is employed by an establishment which is a hotel, motel, or restaurant and who receives compensation for employment in excess of forty-four hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or

[*See main edition for text of (9) to (21)*]

(22) Repealed. Pub. L. 95-151, § 5, Nov. 1, 1977, 91 Stat. 1249.

[*See main edition for text of (23) and (24)*]

(25) Repealed. Pub. L. 95-151, § 6(a), Nov. 1, 1977, 91 Stat. 1249.

(26) Repealed. Pub. L. 95-151, § 7(a), Nov. 1, 1977, 91 Stat. 1250.

[*See main edition for text of (27)*]

(28) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.

(c) Child labor requirements

(1) Except as provided in paragraph (2) or (4), the provisions of section 212 of this title relating to child labor shall not apply to any em-

ployee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

[*See main edition for text of (A) to (C), (2) and (3)*]

(4)(A) An employer or group of employers may apply to the Secretary for a waiver of the application of section 212 of this title to the employment for not more than eight weeks in any calendar year of individuals who are less than twelve years of age, but not less than ten years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

(i) the crop to be harvested is one with a particularly short harvesting season and the application of section 212 of this title would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

(ii) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

(iii) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

(iv) individuals age twelve and above are not available for such employment; and

(v) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

(B) Any waiver granted by the Secretary under subparagraph (A) shall require that—

(i) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

(ii) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

(iii) such individuals be employed under such waiver (I) for not more than eight weeks between June 1 and October 15 of any calendar year, and (II) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.

[*See main edition for text of (d) to (h)*]

(i) Cotton ginning

The provisions of section 207 of this title shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

(2) receives for any such employment during such workweeks—

(A) in excess of ten hours in any workday, and

(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.

(j) Processing of sugar beets, sugar beet molasses, or sugar cane

The provisions of section 207 of this title shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

(2) receives for any such employment during such workweeks—

(A) in excess of ten hours in any workday, and

(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.

(As amended Nov. 1, 1977, Pub. L. 95-151, §§ 4-8, 9(d), 11, 14(a), 91 Stat. 1249, 1250-1252.)

REPEAL OF SUBSECTION (b)(8)

Pub. L. 95-151, § 14(b), Nov. 1, 1977, 91 Stat. 1252, provided that: "Effective January 1, 1979, such section [subsec. (b)(8) of this section] is repealed."

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-151, § 9(d), substituted "section 203(s)(5)" for "section 203(s)(4)".

Subsec. (a)(3). Pub. L. 95-151, §§ 4(a), 11, added "organized camp, or religious or non-profit educational conference center," following "recreational establishment,", and added provisions relating to applicability of exemption from sections 206 and 207 of this title authorized by this paragraph for private employees in national parks, etc.

Subsec. (b)(8). Pub. L. 95-151, § 14(a), substituted "forty-four" for "forty-six".

Subsec. (b)(22). Pub. L. 95-151, § 5, struck out subsec. (b)(22) which related to exemption of shade-grown tobacco employees.

Subsec. (b)(25). Pub. L. 95-151, § 6(a), struck out subsec. (b)(25) which related to exemption of cotton ginning employees. See subsec. (i) of this section.

Subsec. (b)(26). Pub. L. 95-151, § 7(a), struck out subsec. (b)(26) which related to exemption of sugar employees. See subsec. (j) of this section.

Subsec. (b)(29). Pub. L. 95-151, § 4(b), added subsec. (b)(29).

Subsec. (c). Pub. L. 95-151, § 8, in par. (1) added reference to par. (4), and added par. (4).

Subsec. (i). Pub. L. 95-151, § 6(b), added subsec. (i).
Subsec. (j). Pub. L. 95-151, § 7(b), added subsec. (j).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (a)(2), (3), relating to camps, etc., and (c)(1) and (4) by Pub. L. 95-151 effective on Nov. 1, 1977, see section 15(b) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

Amendment of subsecs. (a)(3), relating to private employees in national parks, etc., (b)(22), (25), (26), (29), (i) and (j) by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

Section 14(a) of Pub. L. 95-151 provided in part that the amendment of subsec. (b)(8) of this section by section 14(a) of Pub. L. 95-151 is effective Jan. 1, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 206, 216, 218, 845, 848 of this title; title 5 sections 5343, 5349; title 42 sections 300e-9, 3056.

§ 214. Employment under special certificates

[*See main edition for text of* (a)]

(b) Students

[*See main edition for text of* (1) *to* (3)]

(4) [*See main edition for text of* (A)]

(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed six, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed six—

[*See main edition for text of* (i) *and* (ii)]

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

[*See main edition for text of* (C)]

(D) To minimize paperwork for, and to encourage, small businesses to employ students under special certificates issued under paragraphs (1) and (2), the Secretary shall, by regulation or order, prescribe a simplified application form to be used by employers in applying for such a certificate for the employment of not more than six full-time students. Such an application shall require only—

(i) a listing of the name, address, and business of the applicant employer,

(ii) a listing of the date the applicant began business, and

(iii) the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.

[*See main edition for text of* (c) *and* (d)]

(As amended Nov. 1, 1977, Pub. L. 95-151, §§ 12, 13, 91 Stat. 1252.)

AMENDMENTS

1977—Subsec. (b)(4)(B). Pub. L. 95-151, § 12(a), substituted "six" for "four" wherever appearing therein.
Subsec. (b)(4)(D). Pub. L. 95-151, § 13, added subsec. (b)(4)(D).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Nov. 1, 1977, see section 15(b) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 215, 892b, 895a of this title.

§ 216. Penalties

[*See main edition for text of* (a)]

(b) Damages; right of action; attorney's fees and costs; termination of right of action

Any employer who violates the provisions of section 206 or section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Any employer who violates the provisions of section 215(a)(3) of this title shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 215(a)(3) of this title, including without limitation employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages. An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to

become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 217 of this title in which (1) restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 206 or section 207 of this title by an employer liable therefor under the provisions of this subsection or (2) legal or equitable relief is sought as a result of alleged violations of section 215(a)(3) of this title.

(c) Payment of wages and compensation; waiver of claims; actions by the Secretary; limitation of actions

The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 206 or section 207 of this title, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) of this section to bring an action by or on behalf of any employee to recover the liability specified in the first sentence of such subsection and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 206 and 207 of this title or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provisions of subsection (b) of this section, unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary of Labor on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary of Labor under this subsection for the purposes of the statutes of limitations provided in section 255(a) of this title, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

[*See main edition for text of (d) and (e)*]

(As amended Nov. 1, 1977, Pub. L. 95-151, § 10, 91 Stat. 1252.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-151, § 10(a), (b), added provisions relating to violations of section 215(a)(3) of this title by employers, "(1)" following "section 217 of this title in which", and cl. (2), and substituted "An action to recover the liability prescribed in either of the preceding sentences" for "Action to recover such liability".

Subsec. (c). Pub. L. 95-151, § 10(c), added "to recover the liability specified in the first sentence of such subsection" following "an action by or on behalf of any employee".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

CHAPTER 12—DEPARTMENT OF LABOR

Sec.
557a. Mine Safety and Health Administration [New].

§ 557a. Mine Safety and Health Administration

There is established in the Department of Labor a Mine Safety and Health Administration to be headed by an Assistant Secretary of Labor for Mine Safety and Health appointed by the President, by and with the advice and consent of the Senate. The Secretary, acting through the Assistant Secretary for Mine Safety and Health, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem necessary for the administration of this Act, and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this Act. The Secretary is authorized and directed, except as specifically provided otherwise to carry out his functions under the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 801 et seq.] through the Mine Safety and Health Administration.

(Pub. L. 95-164, title III, § 302(a), Nov. 9, 1977, 91 Stat. 1319.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See particularly section 3301 et seq. of that title.

This Act, referred to in text, means Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290, known as the Federal Mine Safety and Health Amendments of 1977, which enacted this section, sections 822 to 825 and 961 of Title 30, Mineral Lands and Mining, amended sections 5314 and 5315 of Title 5, Government Organization and Employees, and sections 801 to 804, 811 to 821, 842, 861, 878, 951 to 955, 958 and 959 of Title 30, repealed sections 721 to 740 of Title 30 and section 1456a of Title 43, Public Lands, and enacted provisions set out as notes under sections 801 and 954 of Title 30 and section 11 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 801 of Title 30 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in text, is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, which is classified principally to chapter 22 (§ 801 et seq.) of Title 30, Mineral

Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 952 of this title.

CHAPTER 15—OCCUPATIONAL SAFETY AND HEALTH

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 5108; title 15 sections 2080, 2603; title 25 section 450m; title 30 section 951.

CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 8104; title 20 sections 107a, 107d-4; title 21 section 1173; title 22 section 2102; title 26 section 51; title 38 section 2014; title 42 sections 303, 421, 422, 603, 1203, 1353, 1382d, 3024, 6005, 6705.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§ 794. Nondiscrimination under Federal grants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 1242; title 42 section 6727.

CHAPTER 17—COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS

Sec.
803. Veterans [New].
(a) Increased participation in public service employment programs and job training opportunities.
(b) Responsibilities of Secretary of Labor.
(c) Consultation with Administrator of Veterans' Affairs.

SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

PART C—YOUTH EMPLOYMENT DEMONSTRATION PROGRAM [New]

891. Congressional declaration of purpose.

SUBPART 1—YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

892. Entitlement pilot projects authorized.
(a) Arrangements with prime sponsors.
(b) Availability of funds.
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892a. Employment guarantees.
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SUBPART 2—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

893. Congressional declaration of purpose.
893a. Definitions.
893b. Allocation of funds.
(a) State unemployment.
(b) Native American youth projects.
(c) Determination by Secretary.
893c. Community conservation and improvement youth employment projects.
893d. Project applications.
893e. Proposed agreements.
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(b) Required descriptions and assurances.
(c) Council comments and recommendations.
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894. Congressional declaration of purpose.
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(b) Relation to unemployment and low-income levels.
(c) Youth services plans.
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894f. Review of plans by Secretary.
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SUBPART 4—GENERAL PROVISIONS

895. Authorization of appropriations; distributions of fund.
895a. Wage provisions.
895b. Special conditions.
(a) Eligible activities.
(b) Effects of program assistance.
(c) Infringement upon promotional opportunities.
(d) Notification of labor organizations.
(e) Additional standards of eligibility.
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895c. Special provisions for subparts 2 and 3.
(a) Participating youths.
(b) Reallocation of funds.
(c) Applicability of section 965(b).
895d. Academic credit.
(a) Credit granted to eligible participants.
(b) Work experience.
(c) Counseling and placement services.
895e. Earnings disregarded in determining need under other programs.
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SUBCHAPTER VIII—YOUNG ADULT CONSERVATION CORPS [NEW]

993. Congressional declaration of purpose.
993a. Establishment; interagency agreements.
993b. Selection of enrollees.
(a) Referral of candidates.
(b) Qualifications.
(c) Referral sources.

Sec.
(d) Areas of unemployment.
(e) Enrollment period.
993c. Activities.
(a) Fields of activity.
(b) Consistency with other Federal programs.
(c) Project requirements.
(d) Support services.
(e) Academic credit.
993d. Conditions applicable to Corps enrollees.
993e. State and local programs.
(a) Non-Federal public lands and waters.
(b) Application.
(c) Available appropriations.
993f. Annual report to President and Congress.
993g. Discrimination prohibited.
993h. Transfer of funds.
993i. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 2026; title 18 section 665; title 20 sections 1211b, 2306, 2307, 2391, 2563; title 38 section 2003; title 42 sections 2982a, 3056a, 6103, 6864.

§ 801. Congressional statement of purpose

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95-93, § 1, Aug. 5, 1977, 91 Stat. 627, provided: "That this Act [enacting sections 803, 891, 892 to 892d, 893 to 893g, 894 to 894g, 895 to 895f, and 993 to 993i of this title, amending sections 802, 845, 872, 962, 968, and 981 of this title, and enacting provisions set out as notes under sections 802 and 993i of this title] may be cited as the 'Youth Employment and Demonstration Projects Act of 1977'."

Pub. L. 95-44, § 1, June 15, 1977, 91 Stat. 220, provided that: "This Act [amending sections 802, 961, and 967 of this title] may be cited as the 'Comprehensive Employment and Training Act Amendments of 1977'."

§ 802. Authorization of appropriations

(a) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years for carrying out the provisions of this chapter.

[*See main edition for text of* (b) *to* (e)]

(f) Of the amounts available for the Secretary's discretionary use under this chapter, the Secretary shall transfer an amount which shall be not less than $3,000,000 and not more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 2391(b) of title 20, for the purposes described in section 894g(c)(1) of this title.

(As amended Pub. L. 95-44, § 2(a), June 15, 1977, 91 Stat. 220; Pub. L. 95-93, title III, § 302, Aug. 5, 1977, 91 Stat. 650.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-44 substituted "four succeeding years" for "three succeeding years".

Subsec. (f). Pub. L. 95-93 added subsec. (f).

WAIVER OF LIMITS ON FUNDS AVAILABLE FOR CARRYING OUT SUBCHAPTERS III AND IV

Section 304 of Pub. L. 95-93 provided that: "The limitations of section 4(e) of the Comprehensive Employment and Training Act of 1973 [subsec. (e) of this section] shall not apply to appropriations for summer youth employment programs under section 304(a) [section 874(a) of this title], part C of title III [section 891 et seq. of this title] (as added by this Act), and title IV of such Act [subchapter IV of this chapter] for the fiscal year 1978."

§ 803. Veterans

(a) Increased participation in public service employment programs and job training opportunities

With respect to programs carried out with funds appropriated after January 1, 1977, for each of the fiscal years 1977 and 1978 under this chapter, the Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall take appropriate steps to provide for the increased participation in public service employment programs and job training opportunities supported under this chapter of qualified disabled veterans (as defined in section 2011(1) of title 38) and those qualified Vietnam-era veterans (as defined in section 2011(2)(A) of such title) who are under thirty-five years of age (hereinafter in this section referred to collectively as "eligible veterans"), including, but not limited to—

(1) providing for individual prime sponsors to develop local goals, taking into account the number of qualified eligible veterans and the number of qualified persons in other significant segments of the population in the area served by such sponsors, for the placement of such eligible veterans in job vacancies occurring in such public service employment programs; and

(2) requiring that representatives of appropriate veterans organizations or groups be invited to serve as temporary members of prime sponsors' planning councils (established under section 814 of this title), the States' Manpower Services Councils (established under section 817 (a)(1) of this title, and the National Commission for Manpower Policy (established under section 952(a) of this title).

(b) Responsibilities of Secretary of Labor

(1) The Secretary shall make available such sums and shall assign such personnel as may be necessary to carry out fully and effectively his responsibilities under subsection (a) of this section. The Secretary shall report to the Congress within 60 days of August 5, 1977, on the amount so made available and the personnel so assigned.

(2) In preparing the regular reports on the client characteristics of participants under this chapter, the Secretary shall take all reasonable precautions to ensure that eligible veterans are not counted more than once.

(c) Consultation with Administrator of Veterans' Affairs

The Secretary, in carrying out his responsibilities under this section, shall consult with and solicit the cooperation of the Administrator of Veterans' Affairs.

(Pub. L. 95-93, title III, § 305, Aug. 5, 1977, 91 Stat. 651.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), was in the original, the Comprehensive Employment and Training Act of 1973, meaning Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95-93, known as the Youth Employment and Demonstration Projects Act of 1977, and not as part of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, known as the Comprehensive Employment and Training Act of 1973, which comprises this chapter.

SUBCHAPTER I—COMPREHENSIVE MANPOWER SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 844, 850, 871, 874, 892b, 893, 894, 894e, 917, 962, 963, 981 of this title; title 42 section 2809.

§ 811. Program description

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 818, 894a, 983 of this title.

§ 812. Prime sponsor

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 816, 817, 820, 844, 893a, 894c, 963, 964, 993b of this title; title 7 section 2026.

§ 814. Prime sponsor's planning councils

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 803, 893e, 894e, 969 of this title.

§ 815. Conditions for receipt of financial assistance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 816, 818, 819, 872, 893e, 894e of this title.

§ 816. Special provisions relating to State prime sponsors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 818, 819, 894e of this title.

§ 817. State Manpower Services Council

[*See main edition for text of* (a)]

(b) The council shall—

[*See main edition for text of* (1) *to* (3)]

(4)(i) identify, after consultation with the State Advisory Council on Vocational Education, the employment and training and vocational education needs of the State and assess the extent to which employment training, vocational education, vocational rehabilitation, special education, and other programs assisted under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment at least once annually, on the reports of the State Advisory Council on Vocational Education, which comments shall be included in the annual report submitted by the Council pursuant to this section and in the annual report submitted by the State Advisory Council pursuant to section 2305 of title 20.

(As amended Pub. L. 95-40, § 1(28)(A), June 3, 1977, 91 Stat. 207.)

AMENDMENTS

1977—Subsec. (b)(4)(i). Pub. L. 95-40 inserted "special education," following "vocational rehabilitation,".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective on and after Oct. 1, 1977, see section 203(c)(2) of Pub. L. 94-482, as added by Pub. L. 95-40, set out as a note under section 11 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 803, 813 of this title; title 20 sections 2305, 2307.

§ 818. Review of comprehensive manpower plans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 817, 819, 820, 894f of this title.

§ 819. Judicial review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 816, 894f of this title.

§ 820. Authority of Secretary to provide services

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 883, 894f of this title.

§ 821. Allowances

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 894e of this title; title 20 sections 1393d, 2415.

SUBCHAPTER II—PUBLIC SERVICE EMPLOYMENT PROGRAMS

§ 844. Eligible applicants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 851, 893e, 894b, 962, 963, 993b of this title; title 42 section 3246a.

§ 845. Applications for financial assistance

[*See main edition for text of* (a) *to* (c)]

(d) Special consideration for unemployed persons with previous teaching experience

In filling teaching positions in elementary and secondary schools with financial assistance under this subchapter, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this subchapter.

(As amended Pub. L. 95-93, title III, § 306(a), Aug. 5, 1977, 91 Stat. 651.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-93 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 847, 962, 964, 982 of this title; title 7 section 2026.

§ 848. Special conditions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 847, 849, 962, 964, 981 of this title; title 7 section 2026.

SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL TARGET GROUPS

§ 872. Native American employment and training programs

(a) Congressional findings

The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan native, and Hawaiian native communities; (2) there is a compelling need for the establishment of comprehensive manpower training and employment programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in these communities consistent with their goals and life styles.

(b) Congressional declarations

The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska, and Hawaiian natives; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

(c) Utilization of Indian tribes, bands, and groups; non-reservation Indians

(1) In carrying out his responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688) having a governing body, and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian natives, for the provision of manpower services under this subchapter. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive manpower program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 815 of this title.

[*See main edition for text of (2); (d) to (h)*]

(As amended Pub. L. 95-93, title III, § 303(a)-(d), Aug. 5, 1977, 91 Stat. 650.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-93, § 303(b), added reference to Hawaiian natives.

Subsec. (b). Pub. L. 95-93, § 303(c), added reference to Hawaiian natives.

Subsec. (c)(1). Pub. L. 95-93, § 303(d), added provision relating to public and private nonprofit agencies to serve Hawaiian natives.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 893a, 893e, 894c, 962, 993b of this title.

§ 873. Migrant and seasonal farmworker manpower program

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 893a, 893e, 894c, 993b of this title; title 20 section 2561.

§ 874. Youth programs and other special programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 892b, 964, 985 of this title.

PART C—YOUTH EMPLOYMENT DEMONSTRATION PROGRAM [NEW]

§ 891. Congressional declaration of purpose

It is the purpose of this part to establish a variety of employment, training and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth. The basic purpose of the demonstration programs shall be to test the relative efficacy of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find, jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment opportunities after they have completed the program.

(Pub. L. 93-203, title III, § 321, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 632.)

SUBPART 1—YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 895 of this title.

§ 892. Entitlement pilot projects authorized

(a) Arrangements with prime sponsors

The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the pur-

pose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training, for economically disadvantaged youth between the ages of sixteen and nineteen, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

(b) Availability of funds

Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee such employment to each such unemployed youth who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 892b(a)(4)(F) of this title, the amount to which that prime sponsor is entitled under subsection (c) of this section.

(c) Recovery of costs

Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 892b(a)(4)(F) of this title.

(Pub. L. 93-203, title III, § 325, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 632.)

§ 892a. Employment guarantees

Employment opportunities guaranteed under this subpart shall take the form of any one of the following or combination thereof:

(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of twenty hours per week for each youth employed, and not to last less than six months nor more than nine, or projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies (as defined in section 881(f) of title 20); institutions of higher education (as defined in section 1141(a) of title 20); nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government.

(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

(4) Full-time employment during the summer months, not to exceed forty hours per week for each youth employed, and not to last less than eight weeks, in any of the institutions described in clause (1) of this section.

(Pub. L. 93-203, title III, § 326, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 633.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 892b of this title.

§ 892b. Selecting prime sponsors

(a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

(2) take into consideration the extent to which the prime sponsors devote funds made available under subchapter I of this chapter and section 874(a)(1), (2), and (3) of this title for the purpose of carrying out a youth incentive entitlement project or for supportive services;

(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

(4) select only prime sponsors which submit proposals which include—

(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

(C) assurances that the provisions of section 895a and 895b of this title are met relating to wage provisions and special conditions;

(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, in-

cluding law enforcement and judicial agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantaged youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

(F) an agreement that funds under subchapter I of this chapter planned for economically disadvantaged youth employment programs and funds available for the summer youth program under section 874 of this title for youth eligible under this subsection will be used in support of the project authorized under this subpart;

(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 892c of this title;

(H) assurances that participating youth shall not be employed more than an average of twenty hours per week during the school year and not more than forty hours per week during the summer;

(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this chapter, wages may be paid in accordance with the provisions of subsection (b) of section 214 of this title, and with the balance being applied to the cost of training;

(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment; and

(L) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the report required by section 892d of this title.

(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

(1) the use of a variety of subsidies to private for-profit employers, notwithstanding the provisions of sections 892a and 892c(a) of this title, to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

(4) the inclusion of economically disadvantaged youths between the ages of nineteen and twenty-five who have not received their high school diploma;

(5) the inclusion of occupational and career counseling outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

(Pub. L. 93-203, title III, § 327, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 633.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 892 of this title.

§ 892c. Special provisions

(a) Employment and training under this subpart shall develop the participant's role as a meaningful member of the community, and may include, but is not limited to, employment and training in such fields as environmental quality, health care, education, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education, or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project or where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

(Pub. L. 93-203, title III, § 328, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 635.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 892b of this title.

§ 892d. Reports

The Secretary shall report to the Congress not later than March 15, 1978, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1978 con-

cerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

(1) the number of youths enrolled at the time of the report;

(2) the cost of providing employment opportunities to such youths;

(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

(4) the number of youths provided employment in relation to the total which might have been eligible;

(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

(7) the estimated cost of such a program if it were to be extended to all areas;

(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

(Pub. L. 93-203, title III, § 329, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 635.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 892b of this title.

SUBPART 2—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 893b, 894e, 895, 895a, 895c of this title.

§ 893. Congressional declaration of purpose

It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under subchapter I of this chapter.

(Pub. L. 93-203, title III, § 331, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 636.)

§ 893a. Definitions

As used in this subpart, the term—

(1) "eligible applicant" means any prime sponsor qualified under section 812 of this title, sponsors of Native American programs qualified under section 872(c)(1) of this title, and sponsors of migrant and seasonal farmworker programs qualified under section 873 of this title;

(2) "project applicant" shall have the same meaning as in section 981(a)(15) of this title;

(3) "eligible youths" means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

(4) "community improvement projects" means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials and supplies available without cost; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

(Pub. L. 93-203, title III, § 332, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 636.)

§ 893b. Allocation of funds

(a) State unemployment

Funds available to carry out this subpart for any fiscal year shall be allocated in such a matter that not less than 75 per centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this subpart within any one State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

(b) Native American youth projects

Of the funds available for this subpart 2 percent shall be available for projects for Native American eligible youths, and 2 percent shall be available for projects for eligible youths in migrant and seasonal farmworker families.

(c) Determination by Secretary

The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

(Pub. L. 93-203, title III, § 333, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 636.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 894b of this title.

§ 893c. Community conservation and improvement youth employment projects

The Secretary is authorized, in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

(Pub. L. 93-203, title III, § 334, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 637.)

§ 893d. Project applications

(a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

(b) In accordance with regulations prescribed by the Secretary, each project application shall—

(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

(Pub. L. 93-203, title III, § 335, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 637.)

§ 893e. Proposed agreements

(a) Transmittal

(1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

(2) The definition and functions of a program agent shall be as set forth in section 844(d) of this title.

(b) Required descriptions and assurances

The proposed agreement submitted by any eligible applicant shall—

(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this chapter, including arrangements required by section 815 of this title, and also including a description of arrangements with school systems and the public employment service (including school cooperative programs);

(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

(c) Council comments and recommendations

(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 814 of this title (or an appropriate planning organization in the case of sponsors of Native American programs under section 872 of this title or migrant and seasonal farmworker programs under section 873 of this title) for the purpose of affording such council (and the youth council established under section 894e of this title) an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

(Pub. L. 93-203, title III, § 336, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 637.)

§ 893f. Approval of agreements

(a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

(1) the standards set forth in subpart 4 of this part will be satisfied;

(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

(Pub. L. 93-203, title III, § 337, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 638.)

§ 893g. Work limitation

No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary.

(Pub. L. 93-203, title III, § 338, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 639.)

SUBPART 3—YOUTH EMPLOYMENT AND TRAINING PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 895, 895a, 895c of this title.

§ 894. Congressional declaration of purpose

It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under subchapter I of this chapter, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart will be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

(Pub. L. 93-203, title III, § 341, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 639.)

§ 894a. Programs authorized

(a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants including but not limited to—

(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, and related activities;

(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control, preservation of historic sites, and maintenance of visitor facilities;

(3) appropriate training and services to support the purpose of this subpart, including but not limited to—

(A) outreach, assessment, and orientation;

(B) counseling, including occupational information and career counseling;

(C) activities promoting education to work transition;

(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

(E) services to youth to help them obtain and retain employment;

(F) literacy training and bilingual training;

(G) attainment of certificates of high school equivalency;

(H) job sampling, including vocational exploration in the public and private sector;

(I) institutional and on-the-job training, including development of basic skills and job skills;

(J) transportation assistance;

(K) child care and other necessary supportive services;

(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

(M) community-based central intake and information services for youth;

(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) programs to overcome sex-stereotyping in job development and placement; and

(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 981(a)(15) of this title) or employers organized for profit but payments to such employers shall not exceed the amounts permitted under section 811(5) of this title, or may operate programs directly if, after consulation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

(Pub. L. 93-203, title III, § 342, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 639.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 894b, 894d, 894e, 894f of this title.

§ 894b. Allocation of funds

(a) Purposes

From the sums available for this subpart—

(1) an amount equal to 75 percent of such funds shall be made available to prime sponsors for programs authorized under section 894a of this title;

(2) an amount equal to 5 percent of the amount available for this part shall be made available to Governors for special statewide youth services under subsection (c) of this section;

(3) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 893b(b) of this title);

(4) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 893b(b) of this title); and

(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 894g of this title.

(b) Relation to unemployment and low-income levels

(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) of this section shall be allocated among the States in such a manner that—

(A) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

(B) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 844(c) of this title) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

(C) 25 percent thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 981(a)(4) of this title) within each State as compared to the total number of such persons in all States.

(2) In determining allocations under this subsection, the Secretary shall use what the Secretary determines to be the best available data.

(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

(c) Youth services plans

The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

(d) In-school youth programs

(1) Not less than 22 percent of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

(2) The amount available to each prime sponsor under paragraph (1) of this subsection shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

(e) Community organizations

Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 894a of this title, to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

(Pub. L. 93-203, title III, § 343, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 640.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 894e of this title.

§ 894c. Eligible applicants

Eligible applicants for purposes of this subpart, except section 894g of this title, are prime sponsors qualified under section 812 of this title, sponsors of Native American programs qualified under section 872(c)(1) of this title, and sponsors of migrant and seasonal farmworker programs qualified under section 873 of this title.

(Pub. L. 93-203, title III, § 344, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 642.)

§ 894d. Eligible participants

(a) Eligible participants for programs authorized under this subpart shall be persons who—

(1)(A) are unemployed or are underemployed or are in school and are ages sixteen to twenty-one, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 percent of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under paragraph (3) of section 894a(a) of this title.

Notwithstanding the provisions of this subsection, 10 percent of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

(b) For purposes of this section, the term "lower living standard income level" means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent "lower living standard budget" issued by the Bureau of Labor Statistics of the Department of Labor.

(Pub. L. 93-203, title III, § 345, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 642.)

§ 894e. Conditions for receipt of financial assistance

(a) Required assurances

The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 894a of this title unless such eligible applicant provides assurances that the standards set forth in subpart 4 of this part will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

(1) describe the programs, projects or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 815 and 816 of this title, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under subchapter I of this chapter, but services to youth under subchapter I of this chapter shall not be reduced because of the availability of financial assistance under this subpart;

(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

(4) provide assurances satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 821(a) of this title and such regulations as the Secretary may prescribe for this subpart;

(5) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 814 of this title;

(6) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under the section 814 of this title) in accordance with subsection (b) of this section;

(7) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education and training, derived by each participant from programs established under this subpart;

(8) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

(9) provide that the funds available under section 894b(d) of this title shall be used for programs authorized under section 894a of this title for in-school youth who are eligible participants through arrangements to be car-

ried out by a local educational agency or agencies or postsecondary educational institution or institutions; and

(10) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

(b) Youth council recommendations

Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 814 of this title with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

(c) Agreement between prime sponsor and local educational agency

No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment not subsidized under this in-school program;

(2) be administered, under contracts with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section.[1]

(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this chapter, and other resources available in the local community to assist such youths in obtaining employment;

(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

(Pub. L. 93-203, title III, § 346, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 642.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 893e of this title.

§ 894f. Review of plans by Secretary

The provisions of sections 818, 819, and 820 of this title shall apply to all programs and activities authorized under section 894a of this title.

(Pub. L. 93-203, title III, § 347, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 645.)

§ 894g. Discretionary projects

(a) Innovative and experimental programs

(1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems.

(2) In carrying out or supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

(b) Special consideration for community-based organizations with a demonstrated record of effectiveness

The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental pro-

[1] So in original. Probably should be a semicolon.

grams assisted under this section to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

(c) National Occupational Information Coordinating Committee

(1) In carrying out its responsibilities under this subsection and under section 2391 of title 20, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this subchapter, including but not limited to the following:

(A) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

(B) Assisting[1] and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot programs in the use of computers to facilitate such access;

(C) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

(D) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service offices and to improve the match of youth career desires with available and anticipated labor demand;

(E) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

(F) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers and offices.

(2) All funds available to the National Occupational Information Coordinating Committee under this chapter and under section 2391 of title 20 may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

(Pub. L. 93-203, title III, § 348, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 645.)

[1] So in original. Probably should be "assisting".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 802, 894b, 894c of this title.

SUBPART 4—GENERAL PROVISIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 893f, 894e of this title.

§ 895. Authorization of appropriations; distribution of funds

(a) There are authorized to be appropriated for the fiscal year 1978 such sums as may be necessary to carry out the provisions of this part.

(b) Of the sums available for carrying out the provisions of this part—

(1) fifteen percent shall be available for subpart 1;

(2) fifteen percent shall be available for subpart 2; and

(3) seventy percent shall be available for subpart 3.

(Pub. L. 93-203, title III, § 351, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 646.)

§ 895a. Wage provisions

Rates of pay under this part shall be no less than the higher of—

(1) the minimum wage under section 206(a)(1) of this title, but in the case of an individual who is fourteen or fifteen years old, the wage provided in accordance with the provisions of subsection (b) of section 214 of this title;

(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is 14 or 15 years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within 30 days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition

the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within 30 days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

(D) in the case of projects to which the provisions of the Davis-Bacon Act [40 U.S.C. 276a et seq.] (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 of this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

(Pub. L. 93-203, title III, § 352, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 646.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in par. (3)(D), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 892b of this title.

§ 895b. Special conditions

(a) Eligible activities

The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

(b) Effects of program assistance

The Secretary shall determine that the activities assisted under this part—

(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of non-overtime work or wages or employment benefits);

(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

(c) Infringement upon promotional opportunities

The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this chapter and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

(d) Notification of labor organizations

Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

(e) Additional standards of eligibility

Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this chapter.

(f) Persons ineligible for assistance programs

Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where such employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under this part.

(Pub. L. 93-203, title III, § 353, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 647.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 892b of this title.

§ 895c. Special provisions for subparts 2 and 3

(a) Participating youths

Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under subparts 2 and 3 of this part shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

(b) Reallocation of funds

The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 of this part to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

(c) Applicability of section 965(b)

The provisions of section 965(b) of this title shall apply to subparts 2 and 3 of this part.

(Pub. L. 93-203, title III, § 354, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 648.)

§ 895d. Academic credit

(a) Credit granted to eligible participants

In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

(b) Work experience

The Secretary, in carrying out the purposes of this part, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this subchapter.

(c) Counseling and placement services

All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

(Pub. L. 93-203, title III, § 355, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 649.)

§ 895e. Earnings disregarded in determining need under other programs

Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

(Pub. L. 93-203, title III, § 356, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 649.)

§ 895f. Inconsistent provisions

The provisions of subchapter VII of this chapter shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

(Pub. L. 93-203, title III, § 357, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 649.)

SUBCHAPTER V—NATIONAL COMMISSION FOR MANPOWER POLICY

§ 952. Commission established

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective on and after Oct. 1, 1977, see section 203(c)(2) of Pub. L. 94-482, as added by Pub. L. 95-40, set out as a note under section 11 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 803 of this title.

§ 953. Functions of the Commission

The Commission shall—

[*See main volume for text of (1) to (4)*]

(5)(i) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, special education, and other programs assisted under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education, which comments shall be included in one of the reports submitted by the National Commission pursuant to this section and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 2392 of title 20; and

[*See main volume for text of (6)*]

(As amended Pub. L. 95-40, § 1(28)(B), June 3, 1977, 91 Stat. 207.)

AMENDMENTS

1977—Cl. (5)(i). Pub. L. 95-40 inserted "special education," following "vocational rehabilitation,".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective on and after Oct. 1, 1977, see section 203(c)(2) of Pub. L. 94-482, as added by Pub. L. 95-40, set out as a note under section 11 of Title 20, Education.

SUBCHAPTER VI—EMERGENCY JOB PROGRAMS

§ 961. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for fiscal year 1977 and for fiscal year 1978, for carrying out the provisions of this subchapter.

(As amended Pub. L. 95-44, § 2(b), June 15, 1977, 91 Stat. 220.)

AMENDMENTS

1977—Pub. L. 95-44 added provisions authorizing the appropriation of such sums as may be necessary for carrying out the provisions of this subchapter for fiscal year 1978.

§ 962. Financial assistance

[*See main volume for text of (a) to (e)*]

(f) Special consideration for unemployed persons with previous teaching experience

In filling teaching positions in elementary and secondary schools with financial assistance under this subchapter, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this subchapter.

(As amended Pub. L. 95-93, title III, § 306(b), Aug. 5, 1977, 91 Stat. 651.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-93 added subsec. (f).

§ 965. Expenditure of funds

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 895c of this title.

§ 967. Reservation of funds; employment of long-term unemployed, low-income persons

(a) Reservation of funds for subchapter II public service jobholders

Each prime sponsor, in accordance with regulations which the Secretary shall prescribe, shall reserve out of any allocation which it receives under this subchapter from appropriations for fiscal year 1977 and fiscal year 1978, such amount as will be sufficient, when added to funds available for use under subchapter II of this chapter during each such fiscal year, to enable the prime sponsor to sustain throughout each such fiscal year the number of public service jobholders supported under this subchapter and subchapter II of this chapter on June 30, 1976.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 95-44, § 2(c), June 15, 1977, 91 Stat. 220.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-44 inserted "and fiscal year 1978" following "for fiscal year 1977" and substituted "each such fiscal year" for "such fiscal year" in two places.

§ 968. Eligibility of long-term unemployed, low-income persons

(a) Eligibility requirements

In filling public service jobs with financial assistance available for the purposes of subsections (b) and (c)(1) of section 967 of this title, each prime sponsor shall determine that any person to be employed in any such public service job (1) is an individual—

(A) who has been eligible for unemployment compensation benefits for fifteen or more weeks;

(B) who is not eligible for such benefits and has been unemployed for fifteen or more weeks;

(C) who has exhausted unemployment compensation benefits; or

(D) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

and (2) is not a member of a household which has current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and other public payments which such individual will be disqualified from receiving by reason of employment under this subchapter) at a rate exceeding 70 per centum of the lower living standard income level.

[*See main edition for text of (b) to (e)*]

(As amended Pub. L. 95-93, title III, § 307, Aug. 5, 1977, 91 Stat. 652.)

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-93 added "benefits" following "compensation" and substituted "eligible for" for "receiving".

SUBCHAPTER VII—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 895f of this title.

§ 981. Definitions

(a) As used in this chapter, the term—

[*See main edition for text of (1) to (15)*]

(16) "Hawaiian native" means any individual any of whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-93, title III, § 303(e), Aug. 5, 1977, 91 Stat. 650.)

AMENDMENTS

1977—Subsec. (a)(16). Pub. L. 95-93 added subsec. (a)(16).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 893a, 894a, 894b, 965, 967 of this title.

§ 983. Conditions applicable to all programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 818, 929 of this title; title 7 section 2026.

SUBCHAPTER VIII—YOUNG ADULT CONSERVATION CORPS [NEW]

§ 993. Congressional declaration of purpose

It is the purpose of this subchapter to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

(Pub. L. 93-203, title VIII, § 801, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627.)

§ 993a. Establishment; interagency agreements

To carry out the purposes of this subchapter, there is established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this subchapter through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

(Pub. L. 93-203, title VIII, § 802, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627.)

§ 993b. Selection of enrollees

(a) Referral of candidates

Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

(b) Qualifications

(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

(A) are unemployed;

(B) are between the ages sixteen to twenty-three, inclusive;

(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees;

(D) are capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

(2) Individuals who, at the time of enrollment, have attained age sixteen but not attained age nineteen and who have left school shall not be admitted to membership in the Corps unless they give adequate assurances, under criteria established by the Secretary of Labor, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this subchapter.

(c) Referral sources

The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors qualified under section 812 of this title, sponsors of Native American programs qualified under section 872 of this title, sponsors of migrant and seasonal farmworker programs under section 873 of this title, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary of Labor may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

(d) Areas of unemployment

In referring candidates from each State in accordance with subsection (c) of this section, preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment, including areas of substantial unemployment determined by the Secretary of Labor under section 844(c) of this title to have rates of unemployment equal to or in excess of 6.5 per centum.

(e) Enrollment period

(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve-month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

(Pub. L. 93-203, title VIII, § 803, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 993e of this title.

§ 993c. Activities

(a) Fields of activity

Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center.

The Corps shall perform work on projects in such fields as—

(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

(2) wildlife habitat improvements and preservation;

(3) range management improvements;

(4) recreation development, rehabilitation, and maintenance;

(5) fish habitat and culture measures;

(6) forest insect and disease prevention and control;

(7) road and trail maintenance and improvements;

(8) general sanitation, cleanup, and maintenance;

(9) erosion control and flood damage;

(10) drought damage measures; and

(11) other natural disaster damage measures.

(b) Consistency with other Federal programs

(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this subchapter are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 [16 U.S.C. 1600 et seq.], and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

(c) Project requirements

To the maximum extent practicable, projects shall—

(1) be labor intensive;

(2) be projects for which work plans could be readily developed;

(3) be able to be initiated promptly;

(4) be productive;

(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

(6) provide work experience to participants in skill areas required for the projects;

(7) if a residential program, be located, to the maximum extent consistent with the objectives of this subchapter, in areas where existing residential facilities for the Corps members are available; and

(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

(d) Support services

(1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this subchapter. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

(e) Academic credit

The Secretary of Labor, in carrying out the purpose of this subchapter, shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this subchapter.

(Pub. L. 93-203, title VIII, § 804, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 628.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, referred to in subsec. (b)(1), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to chapter 36 (§ 1600 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of Title 16 and Tables.

CODIFICATION

The phrase "purposes of this subchapter", referred to in subsec. (d)(1), was in the original "purposes of this part" and has been translated as "purposes of this subchapter" as the probable intent of Congress.

§ 993d. Conditions applicable to Corps enrollees

(a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter 1 of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and provisions of that subchapter shall apply, except that the term "performance of duty" shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized

by or under the direction and supervision of the Secretary.

(3) For purposes of chapter 171 of title 28, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, and provisions of that chapter shall apply.

(4) For purposes of section 5911 of title 5, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in that section, and provisions of that section shall apply.

(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

(1) rates of pay which shall be at least at the wage required by section 206(a)(1) of this title;

(2) reasonable hours and conditions of employment; and

(3) safe and healthful working and living conditions.

(Pub. L. 93-203, title VIII, § 805, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 629.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (a)(1), is classified generally to Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 993e of this title.

§ 993e. State and local programs

(a) Non-Federal public lands and waters

Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

(1) after consultation with the Governor, with any State agency or institution;

(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this subchapter of any State or local component of the Corps or of any project on non-Federal public lands or waters or any project involving work on both non-Federal and Federal lands and waters.

(b) Application

No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such time as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

(1) meet the qualifications set forth in section 993b(b) of this title,

(2) shall be employed in accordance with section 993d(b) of this title, and

(3) shall be employed in activities that—

(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

(D) will not substitute jobs assisted under this subchapter for existing federally assisted jobs, and

(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

(c) Available appropriations

Thirty percent of the sums appropriated to carry out this subchapter for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

(Pub. L. 93-203, title VIII, § 806, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 630.)

§ 993f. Annual report to President and Congress

The Secretary of Labor, the Secretary of the Interior and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this subchapter for each fiscal year. Such report shall be submitted not later than February 1 of each year following August 5, 1977. The Secretaries shall include in such report such recommendations as they deem appropriate.

(Pub. L. 93-203, title VIII, § 807, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631.)

§ 993g. Discrimination prohibited

(a) No persons with responsibilities in the operations of such programs shall discriminate with respect to participation in such programs because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

(Pub. L. 93-203, title VIII, § 808, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631.)

§ 993h. Transfer of funds

Funds necessary to carry out their responsibilities under this subchapter shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agree-

ments between the Secretary of Labor and the Secretaries of the Interior and Agriculture.

(Pub. L. 93-203, title VIII, § 809, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631.)

§ 993i. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the fiscal year 1978 and for each fiscal year ending prior to October 1, 1980, for the purpose of carrying out this subchapter.

(Pub. L. 93-203, title VIII, § 810, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631.)

USE OF FUNDS AVAILABLE FROM APPROPRIATIONS UNDER ECONOMIC STIMULUS APPROPRIATIONS ACT OF 1977

Section 301 of Pub. L. 95-93 provided that: "In order to provide for an orderly transition to youth employment and training activities funded under part C of title III [section 891 et seq. of this title] and title VIII of the Comprehensive Employment and Training Act of 1973 (as added by this Act) [this subchapter], the Secretary of Labor shall use the funds available from appropriations under the Economic Stimulus Appropriations Act of 1977 [Pub. L. 95-29, May 13, 1977, 91 Stat. 122] for youth employment and training activities, to the maximum extent consistent with law, in such a manner as to be in accordance with the provisions of such part C and such title VIII."

CHAPTER 18—EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM

SUBCHAPTER III—PLAN TERMINATION INSURANCE

§ 1306. Premium rates

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1302, 1362, 1381 of this title.

§ 1322. Benefits guaranteed

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1305, 1306, 1321, 1343, 1344, 1346, 1361, 1381 of this title; title 42 section 430.

§ 1381. Effective date; special rules

[*See main edition for text of (a) and (b)*]

(c)(1) Except as provided in paragraphs (2), (3), and (4), the corporation shall not pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before July 1, 1979. Whenever the corporation exercises the authority granted under paragraph (2) or (3), the corporation shall notify the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives, and the Committee on Human Resources and the Committee on Finance of the Senate.

(2) The corporation may, in its discretion, pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates after September 2, 1974 and before July 1, 1979, if—

(A) the plan was maintained during the 60 months immediately preceding the date on which the plan terminates, and

(B) the corporation determines that the payment by the corporation of benefits guaranteed under this subchapter with respect to that plan will not jeopardize the payments the corporation anticipates it may be required to make in connection with benefits guaranteed under this subchapter with respect to multiemployer plans which terminate after June 30, 1979.

[*See main edition for text of (3)*]

(4) If the corporation determines, under paragraph (2) or (3), that it will pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before July 1, 1979, the corporation—

[*See main edition for text of (A) to (C)*]

(D) shall review from time to time payments made under the authority granted to it by paragraphs (2) and (3), and reduce or terminate such payments to the extent necessary to avoid jeopardizing the ability of the corporation to make payments of benefits guaranteed under this subchapter in connection with multiemployer plans which terminate after June 30, 1979, without increasing premium rates for such plans.

(d) The corporation shall present to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources and the Committee on Finance of the Senate a report which comprehensively addresses the anticipated financial condition of the program relating to mandatory coverage of multiemployer plans, including possible events which might cause the corporation to experience serious financial difficulty after July 1, 1979. Such report shall include an explanation of any alternative courses of action which might be taken by the corporation to insure proper coverage of multiemployer plans and the proper financing of the program relating to such plans. If the report contains recommendations for amendments to this title, such recommendations shall be fully explained, and shall be accompanied by explanations of other options for legislative change considered and rejected by the corporation. The report shall be presented by July 1, 1978.

(e) Notwithstanding any provision of this subchapter to the contrary, the annual insurance premium payable to the Pension Benefit Guaranty Corporation for coverage of basic benefits guaranteed under section 1322 of this title by plans that are not multiemployer plans shall be $2.60 for each participant in the plan. This subsection shall be effective for plan years beginning on or after January 1, 1978, and the premium prescribed by this subsection shall be deemed to be the rate imposed by this subchapter for non-multiemployer plans until the rate schedule for such plans is revised pursuant to the procedure set out in section 1306 of this title.

(As amended Pub. L. 95-214, § 1, Dec. 19, 1977, 91 Stat. 1501.)

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-214, § 1(a)(1), substituted "July 1, 1979" for "January 1, 1978".

Subsec. (c)(2). Pub. L. 95-214, § 1(a)(2), substituted "July 1, 1979" for "January 1, 1978" in the provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 95-214, § 1(a)(3), substituted "June 30, 1979" for "December 31, 1977".

Subsec. (c)(4). Pub. L. 95-214, § 1(a)(4), substituted "July 1, 1979" for "January 1, 1978" in the provisions preceding subpar. (A).

Subsec. (c)(4)(D). Pub. L. 95-214, § 1(a)(5), substituted "June 30, 1979" for "December 31, 1977".

Subsecs. (d), (e). Pub. L. 95-214, § 1(b), added subsecs. (d) and (e).

TITLE 30—MINERAL LANDS AND MINING

Chap.		Sec.
25.	Surface Mining Control and Reclamation [New]	1201

CHAPTER 1—THE BUREAU OF MINES

§ 1. Bureau of Mines; establishment; director; experts and other employees

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior, the Department of the Interior, and the officers and components of the Department of the Interior exercised by the Bureau of Mines relating to fuel supply and demand analysis and data gathering, research and development relating to increased efficiency of production technology of solid fuel minerals other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining, and coal preparation and analysis were transferred to, and vested in, the Secretary of Energy as part of the creation of the Department of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See section 7152(d) of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 5, 6, 7, 8 of this title; title 42 section 7152.

§ 3. Duties of Bureau of Mines

TRANSFER OF FUNCTIONS

See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5, 6, 7, 8 of this title; title 42 section 7152.

§ 5. Reports of investigations

TRANSFER OF FUNCTIONS

See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 3, 6, 7, 8 of this title; title 42 section 7152.

§ 6. Personal interest of director and members of Bureau in mines

TRANSFER OF FUNCTIONS

See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 3, 5, 7, 8 of this title; title 42 section 7152.

§ 7. Fees for tests or investigations

TRANSFER OF FUNCTIONS

See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 3, 5, 6, 8 of this title; title 42 section 7152.

CHAPTER 2—MINERAL LANDS AND REGULATIONS IN GENERAL

§ 21a. National mining and minerals policy; definition of minerals; execution of policy under other authorized programs; report to Congress

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292 of this title; title 43 section 1701.

CHAPTER 3A—LEASES AND PROSPECTING PERMITS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 48, 49, 171, 351, 505, 529, 530, 541e, 1003, 1004, 1005, 1232, 1256, 1292 of this title; title 16 sections 90c-1, 460q-5, 460v-4, 460dd-2; title 25 sections 398e, 459c, 459d; title 42 section 7152; title 43 sections 315e, 1608, 1714, 1747; title 50 section 167a.

SUBCHAPTER I—GENERAL PROVISIONS

§ 181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 185, 208, 275, 1004, 1272 of this title; title 10 sections 7421, 7435.

§ 184. Limitations on leases held, owned or controlled by persons, associations or corporations

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior, referred to in subsec. (*l*), to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to, and vested in, the Secretary of Energy, as part of the creation of the Department of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See section 7152(b) of Title 42, The Public Health and Welfare.

§ 185. Rights-of-way for pipelines through Federal lands

TRANSFER OF FUNCTIONS

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members

thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to, and vested in, the Federal Energy Regulatory Commission within the Department of Energy, as part of the creation of the Department of Energy by Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565. See sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 236a, 275, 285 of this title; title 10 sections 7421, 7435; title 33 section 1522; title 42 section 6271; title 43 sections 1652, 1768; title 50 App. section 2403.

§ 189. Rules and regulations; boundary lines; State rights unaffected; taxation

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

SUBCHAPTER II—COAL

§ 201. Leases and exploration

(a) Division into tracts; bidding and award; leases to public agencies; fair market value of leases; leases in National Forests; comprehensive land-use plans; notice of proposed lease offering

[*See main edition for text of (1), (2), (3)(A)-(D)*]

(E) Each coal lease shall contain provisions requiring compliance with the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act [42 U.S.C. 7401 et seq.].

[*See main edition for text of (b)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(3)(E), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (a)(3)(E) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior, referred to subsec. (a)(3)(D), to promulgate regulations under this chapter relating to the fostering of competition for Federal leases were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 202, 208, 208-1, 1262, 1263, 1272, 1273, 1304 of this title; title 10 sections 7421, 7435.

§ 202a. Consolidation of coal leases into logical mining unit

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1272 of this title.

§ 203. Additional contiguous lands allowed lessees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 208, 1272 of this title; title 10 sections 7421, 7435.

§ 207. Conditions of lease

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 208, 1256, 1272 of this title; title 10 sections 7421, 7435.

§ 208-1. Exploratory program for evaluation of known recoverable coal resources

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1272 of this title.

§ 208-2. Report to Congress on leasing and production of coal lands; contents; recommendations; report by Attorney General on competition in coal industry and effectiveness of antitrust laws

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1272 of this title.

§ 209. Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1272 of this title; title 10 sections 7421, 7435.

SUBCHAPTER III—PHOSPHATES

§ 211. Phosphate deposits

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior, referred to in subsec. (a), to promulgate regulations under this chapter relating to the fostering of competition for Federal leases and to the implementation of alternative bidding systems authorized for the award of Federal leases were transferred to the Secretary of

Energy by section 7152(b) of Title 42, The Public Health and Welfare.

SUBCHAPTER IV—OIL AND GAS

§ 226. Lease of oil and gas lands

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior, referred to in subsec. (j), to promulgate regulations under this chapter relating to the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

SUBCHAPTER V—OIL SHALE

§ 241. Lease of lands

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

SUBCHAPTER VII—SODIUM

§ 262. Leases to permittees; survey of lands; royalties and annual rentals

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, and to the implementation of alternative bidding systems authorized for the award of Federal leases were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

CHAPTER 7—LEASE OF MINERAL DEPOSITS WITHIN ACQUIRED LANDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 192c, 541d, 1003, 1005 of this title; title 16 sections 90c-1, 283b, 460q-5, 460v-4, 460dd-2; title 42 section 7152.

§ 352. Deposits subject to lease; consent of department heads; lands excluded

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 354, 1272 of this title.

§ 359. Rules and regulations

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

CHAPTER 11—MINING CLAIMS ON LANDS SUBJECT TO MINERAL LEASING LAWS

§ 504. Power to make arrangements respecting atomic energy materials as unaffected

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 521. Mineral leasing claims

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 523. Uranium leases

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 530. Definitions

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 12A—ENTRY AND LOCATION ON COAL LANDS ON DISCOVERY OF SOURCE MATERIAL

§ 541e. Definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Ad-

ministrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 16—MINERAL DEVELOPMENT OF LANDS WITHDRAWN FOR POWER DEVELOPMENT

§ 621. Entry of lands reserved for power development

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsec. (a), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 18—COAL RESEARCH AND DEVELOPMENT

§ 661. Definitions

TRANSFER OF FUNCTIONS

Functions of the Secretary of the Interior, the Department of the Interior, and officers components of such Department relating to or utilized by the Office of Coal Research were transferred to the Administrator of the Energy Research and Development Administration by section 5814 of Title 42. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 21—METAL AND NONMETALLIC MINE SAFETY

§§ 721 to 740. Repealed. Pub. L. 95-164, title III, § 306(a), Nov. 9, 1977, 91 Stat. 1322

This chapter, covering the operation of only metal and nonmetallic mines, is now covered by section 801 et seq. of this title following the enactment of Pub. L. 95-164 which brought the operation of all coal and other mines under a single legislative canopy.

Section 721, Pub. L. 89-577, § 2, Sept. 16, 1966, 80 Stat. 772, defined the terms "commerce", "mine", "operator", "Secretary", and "Board". See section 802 of this title.

Section 722, Pub. L. 89-577, § 3, Sept. 16, 1966, 80 Stat. 773, described the mines to be covered and empowered the Secretary of Interior to decline jurisdiction if the effect of the mine on commerce was not sufficiently substantial. See section 801 et seq. of this title.

Section 723, Pub. L. 89-577, § 4, Sept. 16, 1966, 80 Stat. 773, related to investigations of metal and nonmetallic mines to obtain information relating to health and safety conditions. See section 811 of this title.

Section 724, Pub. L. 89-577, § 5, Sept. 16, 1966, 80 Stat. 773, related to the admission of investigators to mines. See section 813 of this title.

Section 725, Pub. L. 89-577, § 6, Sept. 16, 1966, 80 Stat. 774, related to the development of health and safety standards. See section 811 of this title.

Section 726, Pub. L. 89-577, § 7, Sept. 16, 1966, 80 Stat. 775, related to advisory committees. See section 812 of this title.

Section 727, Pub. L. 89-577, § 8, Sept. 16, 1966, 80 Stat. 775 related to findings and orders. See section 814 of this title.

Section 728, Pub. L. 89-577, § 9, Sept. 16, 1966, 80 Stat. 777, related to review of orders by the Secretary of Interior. See section 815 of this title.

Section 729, Pub. L. 89-577, § 10, Sept. 16, 1966, 80 Stat. 778, created the Federal Metal and Nonmetallic Mine Safety Board of Review. See section 823 of this title.

Section 730, Pub. L. 89-577, § 11, Sept. 16, 1966, 80 Stat. 779, related to the review functions of the Federal Metal and Nonmetallic Mine Safety Board of Review. See section 823 of this title.

Section 731, Pub. L. 89-577, § 12, Sept. 16, 1966, 80 Stat. 781, related to judicial review of final orders of the Federal Metal and Nonmetallic Mine Safety Board of Review. See section 816 of this title.

Section 732, Pub. L. 89-577, § 13, Sept. 16, 1966, 80 Stat. 782, related to accident and related reports to the Secretary of Interior. See section 813 of this title.

Section 733, Pub. L. 89-577, § 14, Sept. 16, 1966, 80 Stat. 782, related to the penalties to be imposed for violations of the chapter. See section 820 of this title.

Section 734, Pub. L. 89-577, § 15, Sept. 16, 1966, 80 Stat. 782, related to programs of education and training for employers and employees. See section 825 of this title.

Section 735, Pub. L. 89-577, § 16, Sept. 16, 1966, 80 Stat. 782, related to State plans and cooperation with State agencies. See section 811 of this title.

Section 736, Pub. L. 89-577, § 17, Sept. 16, 1966, 80 Stat. 783, related to the administration of the chapter by the Bureau of Mines of the Department of the Interior. See section 557a of Title 29, Labor.

Section 737, Pub. L. 89-577, § 18, Sept. 16, 1966, 80 Stat. 784, related to the non-applicability of the Administrative Procedure Act to proceedings under the chapter. See section 815 of this title.

Section 738, Pub. L. 89-577, § 19, Sept. 16, 1966, 80 Stat. 784, related to the effect of the chapter on State laws. See section 811 of this title.

Section 739, Pub. L. 89-577, § 20, Sept. 16, 1966, 80 Stat. 784, related to the annual report of the Secretary of the Interior to Congress. See section 557a of Title 29, Labor.

Section 740, Pub. L. 89-577, § 21, Sept. 16, 1966, 80 Stat. 784, authorized the appropriations necessary to carry out the chapter. See section 824 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

CHAPTER 22—MINE SAFETY AND HEALTH

SUBCHAPTER I—GENERAL

Sec.
822. Representation of Secretary in civil litigation by Solicitor of Labor [New].
823. Federal Mine Safety and Health Review Commission [New]
(a) Establishment; membership; chairman.
(b) Terms; personnel; administrative law judges.
(c) Delegation of powers.
(d) Proceedings before administrative law judge; administrative review.
(e) Witnesses and evidence; subpoenas; contempt.
823a. Principal office in District of Columbia; proceedings held elsewhere [New].
824. Authorization of appropriations [New].
825. Mandatory health and safety training [New].
(a) Approved program; regulations.
(b) Training compensation.
(c) Certificate.
(d) Standards.
(e) Proposed regulations.

SUBCHAPTER V—ADMINISTRATIVE PROVISIONS

Sec.
961. Functions transferred under 1977 amendments [New].
(a) Transfer of functions to Secretary of Labor.
(b) Existing mandatory standards; review by advisory committee; recommendations.
(c) Unexpended appropriations; personnel; property; records; obligations; commitments; savings provisions; pending proceedings and suits.
(d) Definition.
(e) Determinations by Director of Office of Management and Budget.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 961, 1211, 1266, 1292 of this title; title 29 section 557a; title 42 section 6211.

§ 801. Congressional findings and declaration of purpose

Congress declares that—

(a) the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner;

(b) deaths and serious injuries from unsafe and unhealthful conditions and practices in the coal or other mines cause grief and suffering to the miners and to their families;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal or other mines in order to prevent death and serious physical harm, and in order to prevent occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in the Nation's coal or other mines is a serious impediment to the future growth of the coal or other mining industry and cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines.

(f) the disruption of production and the loss of income to operators and miners as a result of coal or other mine accidents or occupationally caused diseases unduly impedes and burdens commerce; and

(g) it is the purpose of this chapter (1) to establish interim mandatory health and safety standards and to direct the Secretary of Health, Education, and Welfare and the Secretary of Labor to develop and promulgate improved mandatory health or safety standards to protect the health and safety of the Nation's coal or other miners; (2) to require that each operator of a coal or other mine and every miner in such mine comply with such standards; (3) to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal or other mine health and safety programs; and (4) to improve and expand, in cooperation with the States and the coal or other mining industry, research and development and training programs aimed at preventing coal or other mine accidents and occupationally caused diseases in the industry.

(As amended Pub. L. 95-164, title I, § 102(a), Nov. 9, 1977, 91 Stat. 1290.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), was in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Coal Mine Health and Safety Act of 1969 which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290. The Federal Mine Safety and Health Act of 1977 enacted this chapter, amended sections 633 and 636 of Title 15, Commerce and Trade, repealed sections 451 to 460 and 471 to 483 of this title, and enacted provisions set out as notes under this section and section 636 of Title 15. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1977—Pars. (a) to (d), (f). Pub. L. 95-164, § 102(a)(1), added "or other" following "coal" wherever appearing.

Par. (g). Pub. L. 95-164, § 102(a)(1), (2), added "or other" following "coal" wherever appearing and substituted "Secretary of Labor" for "Secretary of the Interior".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307 of Pub. L. 95-164 provided that: "Except as otherwise provided, this Act and the amendments made by this Act [see Short Title of 1977 Amendment note below] shall take effect 120 days after the date of enactment of this Act [Nov. 9, 1977]. The Secretary of Labor and the Secretary of the Interior are authorized to establish such rules and regulations as may be necessary for the efficient transfer of functions provided under this Act. The amendment to the Federal Coal Mine Health and Safety Act of 1969 [see Short Title note below] made by section 202 of this Act [amending section 842 (e) of this title and repealing subsec. (k) of section 878 of this title] shall be effective on the date of enactment [Nov. 9, 1977]."

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-164 provided: "That this Act [enacting sections 822 to 825 and 961 of this title and section 557a of Title 29, Labor, amending sections 801 to 804, 811 to 821, 842, 861, 878, 951 to 955, 958, and 959 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, repealing sections 721 to 740 of this title and section 1456a of Title 43, Public Lands, and enacting provisions set out as notes under this section, section 954 of this title and section 11 of Title 31, Money and Finance] may be cited as the 'Federal Mine Safety and Health Amendments Act of 1977'."

SHORT TITLE

Section 1 of Pub. L. 91-173, as amended by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, provided: "That this Act [which was known as the Federal Coal Mine Health and Safety Act of 1969 prior to the amendment by Pub. L. 95-164 and which enacted this chapter, amended sections 633 and 636 of Title 15, Commerce and Trade, repealed sections 451 to 460 and 471 to 483 of this title, and enacted provisions set out as notes under this section and section 636 of Title 15] may be cited as the 'Federal Mine Safety and Health Act of 1977'."

§ 802. Definitions

For the purpose of this chapter, the term—

(a) "Secretary" means the Secretary of Labor or his delegate;

[*See main edition for text of* (b) *and* (c)]

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine;

(e) "agent" means any person charged with responsibility for the operation of all or a part of a coal or other mine or the supervision of the miners in a coal or other mine;

[*See main edition for text of* (f)]

(g) "miner" means any individual working in a coal or other mine;

(h)(1) "coal or other mine" means (A) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (B) private ways and roads appurtenant to such area, and (C) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities. In making a determination of what constitutes mineral milling for purposes of this chapter, the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment;

(2) For purposes of subchapters II, III, and IV of this chapter, "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

[*See main edition for text of* (i)]

(j) "imminent danger" means the existence of any condition or practice in a coal or other mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

[*See main edition for text of* (k)]

(l) "mandatory health or safety standard" means the interim mandatory health or safety standards established by subchapters II and III of this chapter, and the standards promulgated pursuant to subchapter I of this chapter;

(m) "Panel" means the Interim Compliance Panel established by this chapter; and

(n) "Administration" means the Mine Safety and Health Administration in the Department of Labor.

(o) "Commission" means the Federal Mine Safety and Health Review Commission.

(As amended Pub. L. 95-164, title I, § 102(b), Nov. 9, 1977, 91 Stat. 1290.)

AMENDMENTS

1977—Par. (a). Pub. L. 95-164, § 102(b)(1), substituted "Secretary of Labor" for "Secretary of the Interior".

Par. (d). Pub. L. 95-164, § 102(b)(2), (4), substituted "supervises a coal or other mine or any independent contractor performing services or construction at such mine" for "supervises a coal mine".

Pars. (e), (g). Pub. L. 95-164, § 102(b)(4), added "or other" following "coal" wherever appearing.

Par. (h). Pub. L. 95-164, § 102(b)(3), added subpar. (1), designated existing provisions as subpar. (2), and, in subpar. (2), as so designated, added "For purposes of subchapters II, III, and IV of this chapter," following "(2)".

Par. (j). Pub. L. 95-164, § 102(b)(4), added "or other" following "coal".

Pars. (n), (o). Pub. L. 95-164, § 102(b)(5), added pars. (n) and (o).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 803. Mines subject to coverage

Each coal or other mine, the products of which enter commerce, or the operations or products of which affect commerce, and each operator of such mine, and every miner in such mine shall be subject to the provisions of this chapter.

(As amended Pub. L. 95-164, title I, § 102(c), Nov. 9, 1977, 91 Stat. 1291.)

AMENDMENTS

1977—Pub. L. 95-164 added "or other" following "coal".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 804. Interim Compliance Panel

[*See main edition for text of* (a) *and* (b)]

(c) Cooperation of Federal agencies

Notwithstanding any other provision of law, the Secretary of Health, Education, and Wel-

fare, the Secretary of Commerce, the Secretary of the Interior, and the Secretary shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this chapter.

[*See main edition for text of (d) to (f)*]

(As amended Pub. L. 95-164, title I, § 102(d), Nov. 9, 1977, 91 Stat. 1291.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-164 substituted "Secretary of the Interior" for "Secretary of Labor".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SUBCHAPTER I—GENERAL

§ 811. Mandatory safety and health standards

(a) Development, promulgation, and revision

The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5 (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this chapter, the Secretary may request the recommendation of an advisory committee appointed under section 812(c) of this title. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within 60 days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than 180 days. When the Secretary receives a recommendation, accompanied by appropriate criteria, from the National Institute for Occupational Safety and Health that a rule be promulgated, modified, or revoked, the Secretary must, within 60 days after receipt thereof, refer such recommendation to an advisory committee pursuant to this paragraph, or publish such as a proposed rule pursuant to paragraph (2), or publish in the Federal Register his determination not to do so, and his reasons therefor. The Secretary shall be required to request the recommendations of an advisory committee appointed under section 812(c) of this title if the rule to be promulgated is, in the discretion of the Secretary which shall be final, new in effect or application and has significant economic impact.

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking a mandatory health or safety standard in the Federal Register. If the Secretary determines that a rule should be proposed and in connection therewith has appointed an advisory committee as provided by paragraph (1), the Secretary shall publish a proposed rule, or the reasons for his determination not to publish such rule, within 60 days following the submission of the advisory committee's recommendation or the expiration of the period of time prescribed by the Secretary in such submission. In either event, the Secretary shall afford interested persons a period of 30 days after any such publication to submit written data or comments on the proposed rule. Such comment period may be extended by the Secretary upon a finding of good cause, which the Secretary shall publish in the Federal Register. Publication shall include the text of such rules proposed in their entirety, a comparative text of the proposed changes in existing rules, and shall include a comprehensive index to the rules, cross-referenced by subject matter.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed mandatory health or safety standard, stating the grounds therefor and requesting a public hearing on such objections. Within 60 days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the mandatory health or safety standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing. Any hearing under this subsection for the purpose of hearing relevant information shall commence within 60 days after the date of publication of the notice of hearing. Hearings required by this subsection shall be conducted by the Secretary, who may prescribe rules and make rulings concerning procedures in such hearings to avoid unnecessary cost or delay. Subject to the need to avoid undue delay, the Secretary shall provide for procedures that will afford interested parties the right to participate in the hearing, including the right to present oral statements and to offer written comments and data. The Secretary may require by subpoena the attendance of witnesses and the production of evidence in connection with any proceeding initiated under this section. If a person refuses to obey a subpoena under this subsection, a United States district court within the jurisdiction of which a proceeding under this subsection is conducted may, upon petition

by the Secretary, issue an order requiring compliance with such subpoena. A transcript shall be taken of any such hearing and shall be available to the public.

(4)(A) Within 90 days after certification of the record of the hearing held pursuant to paragraph (3), the Secretary shall by rule promulgate, modify, or revoke such mandatory health or safety standards, and publish his reasons therefor.

(B) In the case of a proposed mandatory health or safety standard to which objections requesting a public hearing have not been filed, the Secretary, within 90 days after the period for filing such objections has expired, shall by rule promulgate, modify, or revoke such mandatory standards, and publish his reasons therefor.

(C) In the event the Secretary determines that a proposed mandatory health or safety standard should not be promulgated he shall, within the times specified in subparagraphs (A) and (B) publish his reasons for his determination.

(5) Any mandatory health or safety standard promulgated as a final rule under this section shall be effective upon publication in the Federal Register unless the Secretary specifies a later date.

(6)(A) The Secretary, in promulgating mandatory standards dealing with toxic materials or harmful physical agents under this subsection, shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life. Development of mandatory standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the mandatory health or safety standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(B) The Secretary of Health, Education, and Welfare, as soon as possible after November 9, 1977, but in no event later than 18 months after such date and on a continuing basis thereafter, shall, for each toxic material or harmful physical agent which is used or found in a mine, determine whether such material or agent is potentially toxic at the concentrations in which it is used or found in a mine. The Secretary of Health, Education, and Welfare shall submit such determinations with respect to such toxic substances or harmful physical agents to the Secretary. Thereafter, the Secretary of Health, Education, and Welfare shall submit to the Secretary all pertinent criteria regarding any such substances determined to be toxic or any such harmful agents as such criteria are developed. Within 60 days after receiving any criteria in accordance with the preceding sentence relating to a toxic material or harmful physical agent which is not adequately covered by a mandatory health or safety standard promulgated under this section, the Secretary shall either appoint an advisory committee to make recommendations with respect to a mandatory health or safety standard covering such material or agent in accordance with paragraph (1), or publish a proposed rule promulgating such a mandatory health or safety standard in accordance with paragraph (2), or shall publish his determination not to do so.

(7) Any mandatory health or safety standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such mandatory standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring miner exposure at such locations and intervals, and in such manner so as to assure the maximum protection of miners. In addition, where appropriate, any such mandatory standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the operator at his cost, to miners exposed to such hazards in order to most effectively determine whether the health of such miners is adversely affected by such exposure. Where appropriate, the mandatory standard shall provide that where a determination is made that a miner may suffer material impairment of health or functional capacity by reason of exposure to the hazard covered by such mandatory standard, that miner shall be removed from such exposure and reassigned. Any miner transferred as a result of such exposure shall continue to receive compensation for such work at no less than the regular rate of pay for miners in the classification such miner held immediately prior to his transfer. In the event of the transfer of a miner pursuant to the preceding sentence, increases in wages of the transferred miner shall be based upon the new work classification. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of examinations or tests made pursuant to the preceding sentence shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his designated physician.

(8) The Secretary shall, to the extent practicable, promulgate separate mandatory health or safety standards applicable to mine construction activity on the surface.

(9) No mandatory health or safety standard promulgated under this subchapter shall

reduce the protection afforded miners by an existing mandatory health or safety standard.

(b) Emergency temporary mandatory standards

(1) The Secretary shall provide, without regard to the requirements of chapter 5 of title 5 for an emergency temporary mandatory health or safety standard to take immediate effect upon publication in the Federal Register if he determines (A) that miners are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful, or to other hazards, and (B) that such emergency standard is necessary to protect miners from such danger.

(2) A temporary mandatory health or safety standard shall be effective until superseded by a mandatory standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register, the Secretary shall commence a proceeding in accordance with subsection (a) of this section, and the standards as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a mandatory health or safety standard under this paragraph no later than nine months after publication of the emergency temporary standard as provided in paragraph (2).

(c) Modification of standards

Upon petition by the operator or the representative of miners, the Secretary may modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the operator or the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of such operator or representative or other interested party, to enable the operator or the representative of miners in such mine or other interested party to present information relating to the modification of such standard. Before granting any exception to a mandatory safety standard, the findings of the Secretary or his authorized representative shall be made public and shall be available to the representative of the miners at the affected mine. The Secretary shall issue a decision incorporating his findings of fact therein, and send a copy thereof to the operator or the representative of the miners, as appropriate. Any such hearing shall be of record and shall be subject to section 554 of title 5.

(d) Judicial review

Any person who may be adversely affected by a mandatory health or safety standard promulgated under this section may, at any time prior to the sixtieth day after such standard is promulgated, file a petition challenging the validity of such mandatory standard with the United States Court of Appeals for the District of Columbia Circuit or the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused for good cause shown. The validity of any mandatory health or safety standard shall not be subject to challenge on the grounds that any of the time limitations in this section have been exceeded. The procedures of this subsection shall be the exclusive means of challenging the validity of a mandatory health or safety standard.

(e) Distribution of copies of proposed standards or regulations

The Secretary shall send a copy of every proposed mandatory health or safety standard or regulation at the time of publication in the Federal Register to the operator of each coal or other mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1291.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164 substituted provisions revising and setting out in detail the procedures to be followed by the Secretary of Labor in developing, promulgating, and revising mandatory health and safety standards covering coal and other mines for provisions which had charged the Secretary of the Interior with the responsibility of developing standards for the protection of life and the prevention of injuries in coal mines.

Subsec. (b). Pub. L. 95-164 substituted provisions relating to emergency temporary mandatory standards for provisions requiring that improved standards not reduce the previously existing level of health and safety in coal mines.

Subsec. (c). Pub. L. 95-164 substituted provisions relating to the modification of standards for provisions covering the consultative and research steps in the promulgation of safety standards.

Subsec. (d). Pub. L. 95-164 substituted provisions relating to judicial review of standards for provisions covering the consultative and research steps in the promulgation of health standards.

Subsec. (e). Pub. L. 95-164 redesignated former subsec. (k) as (e) and in subsec. (e) as so redesignated substituted "proposed mandatory health or safety standard or regulation" for "proposed standard or regulation" and "coal or other mine" for "coal mine".

Subsecs. (f) to (j). Pub. L. 95-164 struck out subsecs. (f) to (j), which had related to the submission of objections to proposed standards, hearings, the effective date of standards, mandatory standards for surface coal mines, and the publication of pre-existing consistent regulations in the Federal Register and the continuing effectiveness of those regulations until modi-

fied or superseded, and incorporated those provisions, as altered to apply to coal and other mines and as otherwise revised, into subsec. (a).

Subsec. (k). Pub. L. 95-164 redesignated subsec. (k) as (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 815, 841, 842, 846, 861 of this title.

§ 812. Advisory committees

(a) Committee on coal or other mine safety research; establishment; membership; chairman; functions; conflicts of interest

(1) The Secretary of the Interior shall appoint an advisory committee on coal or other mine safety research composed of—

(A) the Director of the Office of Science and Technology or his delegate, with the consent of the Director;

(B) the Director of the National Bureau of Standards, Department of Commerce, or his delegate, with the consent of the Director;

(C) the Director of the National Science Foundation, or his delegate, with the consent of the Director; and

(D) such other persons as the Secretary of the Interior may appoint who are knowledgeable in the field of coal or other mine safety research.

The Secretary of the Interior shall designate the chairman of the committee.

(2) The advisory committee shall consult with, and make recommendations to, the Secretary of the Interior on matters involving or relating to coal or other mine safety research. The Secretary of the Interior shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grants, and the entering into of contracts for such research.

(3) The chairman of the committee and a majority of the persons appointed by the Secretary of the Interior pursuant to paragraph (1)(D) shall be individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(b) Committee on coal or other mine health research; establishment; membership; chairman; functions; conflicts of interest

(1) The Secretary of Health, Education, and Welfare shall appoint an advisory committee on coal or other mine health research composed of—

(A) the Director, Bureau of Mines, or his delegate, with the consent of the Director;

(B) the Director of the National Science Foundation, or his delegate, with the consent of the Director;

(C) the Director of the National Institutes of Health, or his delegate, with the consent of the Director; and

(D) such other persons as the Secretary of Health, Education, and Welfare may appoint who are knowledgeable in the field of coal or other mine health research.

The Secretary of Health, Education, and Welfare shall designate the chairman of the committee.

(2) The advisory committee shall consult with, and make recommendations to, the Secretary of Health, Education, and Welfare on matters involving or relating to coal or other mine health research. The Secretary of Health, Education, and Welfare shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grants, and the entering into of contracts for such research.

(3) The chairman of the committee and a majority of the persons appointed by the Secretary of Health, Education, and Welfare pursuant to paragraph (1)(D) shall be individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(c) Additional advisory committees; chairman; conflicts of interest

The Secretary or the Secretary of Health, Education, and Welfare may appoint other advisory committees as he deems appropriate to advise him in carrying out the provisions of this chapter. The Secretary or the Secretary of Health, Education, and Welfare, as the case may be, shall appoint the chairman of each such committee. A majority of the members (including the chairman) of any such advisory committee appointed pursuant to this subsection shall be composed of individuals who have no economic interests in the coal or other mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(d) Compensation; travel and subsistence expenses

Advisory committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the appropriate Secretary but not in excess of the maximum rate of pay for grade GS-18 as provided in the General Schedule under section 5332 of title 5, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5, be fully reimbursed for travel, subsistence, and related expenses.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1295.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164 expanded the area of coverage for the committee on mine safety research from "coal mines" to "coal or other mines".

Subsec. (b). Pub. L. 95-164 expanded the area of coverage for the advisory committee on mine health research from "coal mines" to "coal or other mines".

Subsec. (c). Pub. L. 95-164 struck out ", who shall be an individual who has no economic interest in the coal mining industry, and who is not an operator, miner, or an officer or employee of the Federal Government or any State or local government" following "chairman of each such committee" and added "(including the chairman)" following "A majority of the members".

Subsec. (d). Pub. L. 95-164 re-enacted subsec. (d) without change.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 811, 961 of this title.

§ 813. Inspections, investigations, and recordkeeping

(a) Purposes; advance notice; frequency; guidelines; right of access

Authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this subchapter or other requirements of this chapter. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this chapter, and his experience under this chapter and other health and safety laws. For the purpose of making any inspection or investigation under this chapter, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling his responsibilities under this chapter, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine.

(b) Notice and hearing; subpoenas; witnesses; contempt

For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal or other mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Records of employee exposure to toxic materials or harmful physical agents; undue exposure

The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this chapter. Such regulations shall provide miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each miner or former miner to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each operator shall promptly notify any miner who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable mandatory health or safety standard promulgated under section 811 of this title, or mandated under subchapter II of this chapter, and shall inform any miner who is being thus exposed of the corrective action being taken.

(d) Accident investigations; records

All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported at a frequency determined by the Secretary, but at least annually.

(e) Collecting information without unreasonable burden on operators

Any information obtained by the Secretary or by the Secretary of Health, Education, and Welfare under this chapter shall be obtained in such a manner as not to impose an unreasonable burden upon operators, especially those operating small businesses, consistent with the underlying purposes of this chapter. Unnecessary duplication of effort in obtaining information shall be reduced to the maximum extent feasible.

(f) Participation of representatives of operators and miners in inspections

Subject to regulations issued by the Secretary, a representative of the operator and a representative authorized by his miners shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any coal or other mine made pursuant to the provisions of subsection (a) of this section, for the purpose of aiding such inspection and to participate in pre- or post-inspection conferences held at the mine. Where there is no authorized miner representative, the Secretary or his authorized representative shall consult with a reasonable number of miners concerning matters of health and safety in such mine. Such representative of miners who is also an employee of the operator shall suffer no loss of pay during the period of his participation in the inspection made under this subsection. To the extent that the Secretary or authorized representative of the Secretary determines that more than one representative from each party would further aid the inspection, he can permit each party to have an equal number of such additional representatives. However, only one such representative of miners who is an employee of the operator shall be entitled to suffer no loss of pay during the period of such participation under the provisions of this subsection. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this chapter.

(g) Immediate inspection; notice of violation or danger; determination

(1) Whenever a repersentative[1] of the miners or a miner in the case of a coal or other mine where there is no such representative has reasonable grounds to believe that a violation of this chapter or a mandatory health or safety standard exists, or an imminent danger exists, such miner or representative shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, signed by the representative of the miners or by the miner, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that the operator or his agent shall be notified forthwith if the complaint indicates that an imminent danger exists. The name of the person giving such notice and the names of individual miners referred to therein shall not appear in such copy or notification. Upon receipt of such notification, a special inspection shall be made as soon as possible to determine if such violation or danger exists in accordance with the provisions of this subchapter. If the Secretary determines that a violation or danger does not exist, he shall notify the miner or representative of the miners in writing of such determination.

(2) Prior to or during any inspection of a coal or other mine, any representative of miners or a miner in the case of a coal or other mine where there is no such representative, may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this chapter or of any imminent danger which he has reason to believe exists in such mine. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation or order with respect to such danger and shall furnish the representative of miners or miner requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(h) Records and reports; compilation and publication; availability

In addition to such records as are specifically required by this chapter, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this chapter. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this chapter, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this chapter may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

(i) Spot inspections

Whenever the Secretary finds that a coal or other mine liberates excessive quantities of methane or other explosive gases during its operations, or that a methane or other gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine some other especially hazardous condition, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine during every five working days at irregular intervals. For purposes of this subsection, "liberation of excessive quantities of methane or other explosive gases" shall mean liberation of more than one million cubic feet of methane or other explosive gases during a 24-hour period. When the Secretary finds that a coal or other mine liberates more than five hundred thousand cubic feet of methane or other explosive

[1] So in original. Probably should be "representative".

gases during a 24-hour period, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine every 10 working days at irregular intervals. When the Secretary finds that a coal or other mine liberates more than two hundred thousand cubic feet of methane or other explosive gases during a 24-hour period, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine every 15 working days at irregular intervals.

(j) Accident notification; rescue and recovery activities

In the event of any accident occurring in any coal or other mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal or other mine, where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activities in such mine.

(k) Safety orders; recovery plans

In the event of any accident occurring in a coal or other mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal or other mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in such mine or to recover the coal or other mine or return affected areas of such mine to normal.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1297.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164 added provisions authorizing representatives of the Secretary of Health, Education, and Welfare to make inspections, expanded the area of inspection and investigation to include mines other than coal mines, added provisions requiring the inspection of surface mines at least two times a year, added provisions requiring the development of guidelines for additional inspections of mines, and added provisions, formerly contained in subsec. (b), authorizing the entry to, upon, or through, any coal or other mine for the purpose of making inspection or investigation.

Subsec. (b). Pub. L. 95-164 redesignated subsec. (d) as (b) and, in subsec. (b) as so redesignated, substituted "coal or other mine" for "coal mine". Provisions of former subsec. (b) were incorporated into subsec. (a).

Subsec. (c). Pub. L. 95-164 added subsec. (c). Former subsec. (c), providing for the utilization of facilities and personnel of other Federal agencies, was stricken.

Subsec. (d). Pub. L. 95-164 added subsec. (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 95-164 added subsec. (e). Former subsec. (e) redesignated (j).

Subsec. (f). Pub. L. 95-164 redesignated former subsec. (h) as (f) and in subsec. (f) as so redesignated added provision for a representative of the operator to accompany the Secretary or his representative in the physical inspection of a mine, extended the provisions to cover mines other than coal mines, and added provisions relating to the choice of the authorized representative of the miners, the representative's duties, and the choice of more than one representative. Former subsec. (f) redesignated (k).

Subsec. (g). Pub. L. 95-164 designated existing provisions as par. (1), added provisions to par. (1) as so designated which extended the right to an immediate inspection to individual miners when there is no representative of the miners, provided for immediate notification to the mine operator or his agent if the complaint indicates that the danger is imminent, kept the name of the person giving the notice and the names of the individual miners off the copy or notification, and required the Secretary to notify the miners or their representatives if he determines that a violation or danger does not exist, and added par. (2).

Subsec. (h). Pub. L. 95-164 added subsec. (h). The provisions of subsec. (h) relating to the right of the miners' representative to accompany the authorized representative of the Secretary on the inspection were incorporated into subsec. (f).

Subsec. (i). Pub. L. 95-164 added a definition of "liberation of excessive quantities of methane or other explosive gases" and added provisions for a reduced schedule of one spot inspections in mines with liberation rates for methane or other explosive gases lower than that required to qualify as "excessive".

Subsecs. (j), (k). Pub. L. 95-164 redesignated former subsecs. (e) and (f) as (j) and (k), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 814, 821 of this title.

§ 814. Citations and orders

(a) Issuance and form of citations; prompt issuance

If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a coal or other mine subject to this chapter has violated this chapter, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to this chapter, he shall, with reasonable promptness, issue a citation to the operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the chapter, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of this chapter.

(b) Follow-up inspections; findings

If, upon any follow-up inspection of a coal or other mine, an authorized representative of the Secretary finds (1) that a violation described in a citation issued pursuant to subsection (a) of this section has not been totally abated within the period of time as originally fixed therein or as subsequently extended, and (2) that the period of time for the abatement should not be further extended, he shall determine the

extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to immediately cause all persons, except those persons referred to in subsection (c) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(c) Exempt persons

The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal or other mine subject to an order issued under this section:

(1) any person whose presence in such area is necessary, in the judgment of the operator or an authorized representative of the Secretary, to eliminate the condition described in the order;

(2) any public official whose official duties require him to enter such area;

(3) any representative of the miners in such mine who is, in the judgment of the operator or an authorized representative of the Secretary, qualified to make such mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

(4) any consultant to any of the foregoing.

(d) Findings of violations; withdrawal order

(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any citation given to the operator under this chapter. If, during the same inspection or any subsequent inspection of such mine within 90 days after the issuance of such citation, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c) of this section to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall promptly be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisions of paragraph (1) shall again be applicable to that mine.

(e) Pattern of violations; abatement; termination of pattern

(1) If an operator has a pattern of violations of mandatory health or safety standards in the coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards, he shall be given written notice that such pattern exists. If, upon any inspection within 90 days after the issuance of such notice, an authorized representative of the Secretary finds any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the authorized representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a coal or other mine has been issued pursuant to paragraph (1), a withdrawal order shall be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a coal or other mine health or safety hazard. The withdrawal order shall remain in effect until an authorized representative of the Secretary determines that such violation has been abated.

(3) If, upon an inspection of the entire coal or other mine, an authorized representative of the Secretary finds no violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine health and safety hazard, the pattern of violations that resulted in the issuance of a notice under paragraph (1) shall be deemed to be terminated and the provisions of paragraphs (1) and (2) shall no longer apply. However, if as a result of subsequent violations, the operator reestablishes a pattern of violations, paragraphs (1) and (2) shall again be applicable to such operator.

(4) The Secretary shall make such rules as he deems necessary to establish criteria for determining when a pattern of violations of mandatory health or safety standards exists.

(f) Respirable dust concentrations; dust control person or team

If, based upon samples taken, analyzed, and recorded pursuant to section 842(a) of this title, or samples taken during an inspection by an authorized representative of the Secretary, the applicable limit on the concentration of respirable dust required to be maintained under this

chapter is exceeded and thereby violated, the Secretary or his authorized representative shall issue a citation fixing a reasonable time for the abatement of the violation. During such time, the operator of the mine shall cause samples described in section 842(a) of this title to be taken of the affected area during each production shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the period of time should not be further extended, he shall determine the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (c) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative has reason to believe, based on actions taken by the operator, that such limit will be complied with upon the resumption of production in such mine. As soon as possible after an order is issued, the Secretary, upon request of the operator, shall dispatch to the mine involved a person, or team of persons, to the extent such persons are available, who are knowledgeable in the methods and means of controlling and reducing respirable dust. Such person or team of persons shall remain at the mine involved for such time as they shall deem appropriate to assist the operator in reducing respirable dust concentrations. While at the mine, such persons may require the operator to take such actions as they deem appropriate to insure the health of any person in the coal or other mine.

(g) Untrained miners

(1) If, upon any inspection or investigation pursuant to section 813 of this title, the Secretary or an authorized representative shall find employed at a coal or other mine a miner who has not received the requisite safety training as determined under section 825 of this title, the Secretary or an authorized representative shall issue an order under this section which declares such miner to be a hazard to himself and to others, and requiring that such miner be immediately withdrawn from the coal or other mine, and be prohibited from entering such mine until an authorized representative of the Secretary determines that such miner has received the training required by section 825 of this title.

(2) No miner who is ordered withdrawn from a coal or other mine under paragraph (1) shall be discharged or otherwise discriminated against because of such order; and no miner who is ordered withdrawn from a coal or other mine under paragraph (1) shall suffer a loss of compensation during the period necessary for such miner to receive such training and for an authorized representative of the Secretary to determine that such miner has received the requisite training.

(h) Duration of citations and orders

Any citation or order issued under this section shall remain in effect until modified, terminated or vacated by the Secretary or his authorized representative, or modified, terminated or vacated by the Commission or the courts pursuant to section 815 or 816 of this title.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1300.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164 substituted provisions directing the Secretary to issue a citation to the operator based upon the belief of the Secretary or his authorized representative, after inspection or investigation, that there has been a violation of this chapter or any mandatory health or safety standard, rule, order, or regulation for provisions that had related to the issuance of a withdrawal order upon a finding that an imminent danger existed.

Subsec. (b). Pub. L. 95-164 substituted provisions setting out the steps to be taken if, upon any follow-up inspection of a coal or other mine, the authorized representative of the Secretary finds that a citation violation has not been abated and that the time for abatement should not be extended for provisions that had set out the steps to be taken in the case of a violation that did not create an imminent danger.

Subsec. (c). Pub. L. 95-164 redesignated subsec. (d) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-164 redesignated subsec. (c) as (d) and in subsec. (d) as so redesignated substituted reference to "citation" for reference to "notice". Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 95-164 substituted provisions relating to the steps to be taken if an operator has a pattern of violations of mandatory health or safety standards for provisions setting out the requisites of notices and orders issued pursuant to this section.

Subsec. (f). Pub. L. 95-164 redesignated subsec. (i) as (f). Former subsec. (f), relating to the delivery of notices and orders issued under this section, was incorporated into subsec. (a).

Subsec. (g). Pub. L. 95-164 added subsec. (g). Former subsec. (g), relating to the modification and termination of notice, was incorporated into subsec. (h).

Subsec. (h). Pub. L. 95-164 added subsec. (h). Provisions of former subsec. (h), which related to steps to be taken when a condition existed which could not be abated through the use of existing technology, were covered in the general revision of subsecs. (d) and (e).

Subsec. (i). Pub. L. 95-164 redesignated former subsec. (i) as (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 816, 817, 820, 821, 842, 863 of this title.

§ 815. Procedure for enforcement

(a) Notification of civil penalty; contest

If, after an inspection or investigation, the Secretary issues a citation or order under section 814 of this title, he shall, within a reasonable time after the termination of such inspection or investigation, notify the operator by certified mail of the civil penalty proposed to be assessed under section 820(a) of this title for the violation cited and that the operator has 30 days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. A copy of such notification shall be sent by mail to the representative

of miners in such mine. If, within 30 days from the receipt of the notification issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the citation or the proposed assessment of penalty, and no notice is filed by any miner or representative of miners under subsection (d) of this section within such time, the citation and the proposed assessment of penalty shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a citation and proposed assessment of penalty under this subsection shall constitute receipt thereof within the meaning of this subsection.

(b) Failure of operator to correct violation; notification; contest; temporary relief

(1)(A) If the Secretary has reason to believe that an operator has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Secretary shall notify the operator by certified mail of such failure and of the penalty proposed to be assessed under section 820(b) of this title by reason of such failure and that the operator has 30 days within which to notify the Secretary that he wishes to contest the Secretary's notification of the proposed assessment of penalty. A copy of such notification of the proposed assessment of penalty shall at the same time be sent by mail to the representative of the mine employees. If, within 30 days from the receipt of notification of proposed assessment of penalty issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the notification of proposed assessment of penalty, such notification shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a notification of proposed assessment of penalty issued under this subsection shall constitute receipt thereof within the meaning of this subsection.

(B) In determining whether to propose a penalty to be assessed under section 820(b) of this title, the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

(2) An applicant may file with the Commission a written request that the Commission grant temporary relief from any modification or termination of any order or from any order issued under section 814 of this title together with a detailed statement giving the reasons for granting such relief. The Commission may grant such relief under such conditions as it may prescribe, if—

(A) a hearing has been held in which all parties were given an opportunity to be heard;

(B) the applicant shows that there is substantial likelihood that the findings of the Commission will be favorable to the applicant; and

(C) such relief will not adversely affect the health and safety of miners.

No temporary relief shall be granted in the case of a citation issued under subsection (a) or (f) of section 814 of this title. The Commission shall provide a procedure for expedited consideration of applications for temporary relief under this paragraph.

(c) Discrimination or interference prohibited; complaint; investigation; determination; hearing

(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this chapter because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this chapter, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 811 of this title or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this chapter.

(2) Any miner or applicant for employment or representative of miners who believes that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may, within 60 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent and shall cause such investigation to be made as he deems appropriate. Such investigation shall commence within 15 days of the Secretary's receipt of the complaint, and if the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner pending final order on the complaint. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner, applicant for employment, or representative of miners alleging such discrimination or interference and propose an order granting appropriate relief. The Commission shall afford an opportu-

nity for a hearing (in accordance with section 554 of title 5 but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary's proposed order, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay and interest. The complaining miner, applicant, or representative of miners may present additional evidence on his own behalf during any hearing held pursuant to his[1] paragraph.

(3) Within 90 days of the receipt of a complaint filed under paragraph (2), the Secretary shall notify, in writing, the miner, applicant for employment, or representative of miners of his determination whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days of notice of the Secretary's determination, to file an action in his own behalf before the Commission, charging discrimination or interference in violation of paragraph (1). The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5 but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate, including, but not limited to, an order requiring the rehiring or reinstatement of the miner to his former position with back pay and interest or such remedy as may be appropriate. Such order shall become final 30 days after its issuance. Whenever an order is issued sustaining the complainant's charges under this subsection, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the miner, applicant for employment or representative of miners for, or in connection with, the institution and prosecution of such proceedings shall be assessed against the person committing such violation. Proceedings under this section shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 816 of this title. Violations by any person of paragraph (1) shall be subject to the provisions of sections 818 and 820(a) of this title.

(d) Contest proceedings; hearing; findings of fact; affirmance, modification, or vacatur of citation, order, or proposed penalty; procedure before Commission

If, within 30 days of receipt thereof, an operator of a coal or other mine notifies the Secretary that he intends to contest the issuance or modification of an order issued under section 814 of this title, or citation or a notification of proposed assessment of a penalty issued under subsection (a) or (b) of this section, or the reasonableness of the length of abatement time fixed in a citation or modification thereof issued under section 814 of this title, or any miner or representative of miners notifies the Secretary of an intention to contest the issuance, modification, or termination of any order issued under section 814 of this title, or the reasonableness of the length of time set for abatement by a citation or modification thereof issued under section 814 of this title, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation, order, or proposed penalty, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The rules of procedure prescribed by the Commission shall provide affected miners or representatives of affected miners an opportunity to participate as parties to hearings under this section. The Commission shall take whatever action is necessary to expedite proceedings for hearing appeals of orders issued under section 814 of this title.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1303.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164 substituted provisions under which the Secretary must notify the operator of the civil penalty he proposes to assess following the issuance of a citation or order and the operator must give notice that he will contest the citation or proposed assessment for provisions under which an operator was required to apply for review of an order issued under section 814 of this title and under which an investigation was made, hearings held, and information presented.

Subsec. (b). Pub. L. 95-164 substituted provisions relating to the steps to be taken following the failure of the operator to correct violations, including provisions relating to temporary relief formerly contained in subsec. (d), for provisions requiring the Secretary to make findings of fact and to issue a written decision upon receiving the report of an investigation.

Subsec. (c). Pub. L. 95-164 added subsec. (c). Former subsec. (c), directing the Secretary to take action under this section as promptly as possible, was incorporated into a part of par. (3).

Subsec. (d). Pub. L. 95-164 added subsec. (d). Former subsec. (d) redesignated (b)(2).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 814, 816, 820 of this title.

[1] So in original. Probably should be "this".

§ 816. Judicial review of Commission orders

(a) Petition by person adversely affected or aggrieved; temporary relief

(1) Any person adversely affected or aggrieved by an order of the Commission issued under this chapter may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or in the United States Court of Appeals for the District of Columbia Circuit, by filing in such court within 30 days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28. Upon such filing, the court shall have exclusive jurisdiction of the proceeding and of the questions determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Commission may modify or set aside its original order by reason of such modified or new findings of fact. Upon the filing of the record after such remand proceedings, the jurisdiction of the court shall be exclusive and its judgment and degree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28. Petitions filed under this subsection shall be heard expeditiously.

(2) In the case of a proceeding to review any order or decision issued by the Commission under this chapter, except an order or decision pertaining to an order issued under section 817(a) of this title or an order or decision pertaining to a citation issued under section 814(a) or (f) of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding, if—

(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(C) such relief will not adversely affect the health and safety of miners in the coal or other mine.

(3) In the case of a proceeding to review any order or decision issued by the Panel under this chapter, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding, if—

(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief; and

(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding.

(b) Petition by Secretary for review or enforcement of final Commission orders

The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in the Court of Appeals for the District of Columbia Circuit, and the provisions of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a) of this section, is filed within 30 days after issuance of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such 30-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 815 of this title, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the operator named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a) of this section, the court of appeals may assess the penalties provided in section 820 of this title, in addition to invoking any other available remedies.

(c) Stay of order or decision of Commission or Panel

The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Commission or the Panel.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1306.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-164 added subsec. (a)(1) consisting of a revision of the provisions of former subsecs. (a), (b), (d), and (f) with additions to cover the proceedings in the reviewing court.

Subsec. (a)(2). Pub. L. 95-164 redesignated subsec. (c)(1) as (a)(2) and in subsec. (a)(2) as so redesignated, substituted "issued by the Commission" for "issued by the Secretary" and "under section 817(a) of this title or an order or decision pertaining to a citation issued under section 814(a) or (f) of this title" for "under section 814(a) of this title or an order or decision pertaining to a notice issued under section 814(b) or (i) of this title" in the provisions preceding subpar. (A).

Subsec. (a)(3). Pub. L. 95-164 redesignated subsec. (c)(2) as (a)(3).

Subsec. (b). Pub. L. 95-164 added subsec. (b). Provisions of former subsec. (b) were incorporated as revised into subsec. (a)(1).

Subsec. (c). Pub. L. 95-164 redesignated subsec. (e) as (c). Former subsec. (c), which consisted of pars. (1) and (2), redesignated (a)(2) and (3).

Subsec. (d). Pub. L. 95-164 struck out subsec. (d) and incorporated its provisions, relating to review by the Supreme Court, into subsec. (a)(1).

Subsec. (e). Pub. L. 95-164 redesignated subsec. (e) as (c).

Subsec. (f). Pub. L. 95-164 struck out subsec. (f) which related to the appointment of attorneys by the Secretary to represent him in proceedings instituted under this section.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 804, 814, 815, 817, 953 of this title.

§ 817. Procedures to counteract dangerous conditions

(a) Withdrawal orders

If, upon any inspection or investigation of a coal or other mine which is subject to this chapter, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the extent of the area of such mine throughout which the danger exists, and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 814(c) of this title, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger and the conditions or practices which caused such imminent danger no longer exist. The issuance of an order under this subsection shall not preclude the issuance of a citation under section 814 of this title or the proposing of a penalty under section 820 of this title.

(b) Notice to mine operators; further investigation; findings and decision by Secretary

(1) If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

(2) Upon the conclusion of an investigation pursuant to paragraph (1), and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause all persons in the area affected, except those persons referred to in subsection (c) of section 814 of this title to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a public hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5.

(c) Form and content of orders

Orders issued pursuant to subsection (a) of this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger and a description of the area of the coal or other mine from which persons must be withdrawn and prohibited from entering.

(d) Findings; duration of orders

Each finding made and order issued under this section shall be given promptly to the operator of the coal or other mine to which it pertains by the person making such finding or order, and all of such findings and orders shall be in writing, and shall be signed by the person making them. Any order issued pursuant to subsection (a) of this section may be modified or terminated by an authorized representative of the Secretary. Any order issued under subsection (a) or (b) of this section shall remain in effect until vacated, modified, or terminated by the Secretary, or modified or vacated by the Commission pursuant to subsection (e) of this section, or by the courts pursuant to section 816(a) of this title.

(e) Reinstatement, modification, and vacatur of orders

(1) Any operator notified of an order under this section or any representative of miners notified of the issuance, modification, or termination of such an order may apply to the Commission within 30 days of such notification for reinstatement, modification or vacation of such order. The Commission shall forthwith afford an opportunity for a hearing (in accordance with section 554 of title 5 but without regard to

subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, vacating, affirming, modifying, or terminating the Secretary's order. The Commission and the courts may not grant temporary relief from the issuance of any order under subsection (a) of this section.

(2) The Commission shall take whatever action is necessary to expedite proceedings under this subsection.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1307.)

AMENDMENTS

1977—Pub. L. 95-164 substituted provisions relating to the procedures to be followed to counteract dangerous conditions in coal or other mines for provisions relating to the posting of notices, orders, and decisions at coal mines, which provisions are now covered in section 819 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 816, 820, 821 of this title.

§ 818. Injunctions

(a) Civil action by Secretary

(1) The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a coal or other mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent—

(A) violates or fails or refuses to comply with any order or decision issued under this chapter,

(B) interferes with, hinders, or delays the Secretary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative, in carrying out the provisions of this chapter,

(C) refuses to admit such representatives to the coal or other mine,

(D) refuses to permit the inspection of the coal or other mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine,

(E) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this chapter, or

(F) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this chapter.

(2) The Secretary may institute a civil action for relief, including permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the coal or other mine is located or in which the operator of such mine has his principal office whenever the Secretary believes that the operator of a coal or other mine is engaged in a pattern of violation of the mandatory health or safety standards of this chapter, which in the judgment of the Secretary constitutes a continuing hazard to the health or safety of miners.

(b) Jurisdiction; relief; findings of Commission or Secretary

In any action brought under subsection (a) of this section, the court shall have jurisdiction to provide such relief as may be appropriate. In the case of an action under subsection (a)(2) of this section, the court shall in its order require such assurance or affirmative steps as it deems necessary to assure itself that the protection afforded to miners under this chapter shall be provided by the operator. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce any order under paragraph (1) of subsection (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this subchapter, unless prior thereto, the district court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision issued by the Commission or the Secretary after a public hearing in accordance with section 554 of title 5, the findings of the Commission or the Secretary, as the case may be, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1309.)

AMENDMENTS

1977—Pub. L. 95-164 redesignated existing provisions as subsecs. (a)(1) and (b), added subsec. (a)(2), and in the redesignated provisions added references to findings of the Commission, added requirement that in actions brought under subsec. (a)(2) the courts require such assurances or affirmative action as they deem necessary to assure that the protections offered by this chapter to the miners be provided by the operator, and struck out provisions relating to the appointment of attorneys by the Secretary to represent him in actions under this section.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 815 of this title.

§ 819. Posting of orders and decisions

(a) Mine office; bulletin board

At each coal or other mine there shall be maintained an office with a conspicuous sign designating it as the office of such mine. There

shall be a bulletin board at such office or located at a conspicuous place near an entrance of such mine, in such manner that orders, citations, notices and decisions required by law or regulation to be posted, may be posted thereon, and be easily visible to all persons desiring to read them., and be protected against damage by weather and against unauthorized removal. A copy of any order, citation, notice or decision required by this chapter to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

(b) Distribution of orders, citations, notices, and decisions

The Secretary shall (1) cause a copy of any order, citation, notice, or decision required by this chapter to be given to an operator to be mailed immediately to a representative of the miners in the affected coal or other mine, and (2) cause a copy thereof to be mailed to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine. Such notice, order, citation, or decision shall be available for public inspection.

(c) Compliance

In order to insure prompt compliance with any notice, order, citation, or decision issued under this chapter, the authorized representative of the Secretary may deliver such notice, order, citation, or decision to an agent of the operator, and such agent shall immediately take appropriate measures to insure compliance with such notice, order, citation, or decision.

(d) Filing; designation of health and safety officers

Each operator of a coal or other mine subject to this chapter shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal or other mine subject to this chapter shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine, and such official shall receive a copy of any notice, order, citation, or decision issued under this chapter affecting such mine. In any case where the mine is subject to the control of any person not directly involved in the daily operations of the coal or other mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal or other mine subject to the control of such person, and such official shall receive a copy of any notice, order, citation, or decision issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this chapter.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1310.)

Amendments

1977—Pub. L. 95-164 substituted provisions relating to the posting of orders and decisions for provisions setting out an enumeration of penalties, which provisions, as revised, were transferred to section 820 of this title.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 820. Penalties

(a) Civil penalty for violation of mandatory health or safety standards

The operator of a coal or other mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of this chapter, shall be assessed a civil penalty by the Secretary which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense.

(b) Civil penalty for failure to correct violation for which citation has been issued

Any operator who fails to correct a violation for which a citation has been issued under section 814(a) of this title within the period permitted for its correction may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

(c) Liability of corporate directors, officers, and agents

Whenever a corporate operator violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this chapter or any order incorporated in a final decision issued under this chapter, except an order incorporated in a decision issued under subsection (a) of this section or section 815(c) of this title, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (d) of this section.

(d) Criminal penalties

Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 814 of this title and section 817 of this title, or any order incorporated in a final decision issued under this subchapter, except an order incorporated in a decision under subsection (a) of this section or section 815(c) of this title, shall, upon conviction, be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this chapter, punishment shall be by a fine of not more than

$50,000, or by imprisonment for not more than five years, or both.

(e) Unauthorized advance notice of inspections

Unless otherwise authorized by this chapter, any person who gives advance notice of any inspection to be conducted under this chapter shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or both.

(f) False statements, representations, or certifications

Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than five years, or both.

(g) Violation by miners of safety standards relating to smoking

Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission, which penalty shall not be more than $250 for each occurrence of such violation.

(h) Equipment falsely represented as complying with statute, specification, or regulations

Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal or other mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this chapter, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be subject to the same fine and imprisonment that may be imposed upon a person under subsection (f) of this section.

(i) Authority to assess civil penalties

The Commission shall have authority to assess all civil penalties provided in this chapter. In assessing civil monetary penalties, the Commission shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation. In proposing civil penalties under this chapter, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

(j) Payment of penalties; interest

Civil penalties owed under this chapter shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation occurred or where the operator has its principal office. Interest at the rate of 8 percent per annum shall be charged against a person on any final order of the Commission, or the court. Interest shall begin to accrue 30 days after the issuance of such order.

(k) Compromise, mitigation, and settlement of penalty

No proposed penalty which has been contested before the Commission under section 815(a) of this title shall be compromised, mitigated, or settled except with the approval of the Commission. No penalty assessment which has become a final order of the Commission shall be compromised, mitigated, or settled except with the approval of the court.

(*l*) Inapplicability to black lung benefit provisions

The provisions of this section shall not be applicable with respect to subchapter IV of this chapter.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1311.)

AMENDMENTS

1977—Pub. L. 95-164 substituted provisions setting the civil and criminal penalties with regard to violations of this chapter for provisions relating to claims of idled miners, which provisions, as revised, were transferred to section 821 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 816, 817, 825 of this title.

§ 821. Entitlement of miners to full compensation

If a coal or other mine or area of such mine is closed by an order issued under section 813 of this title, section 814 of this title, or section 817 of this title, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal or other mine or area of such mine is closed by an order issued under section 814 of this title or section 817 of this title for a failure of the operator to comply with any mandatory health or safety standards, all miners who are idled due to such order shall be fully compensated after all interested parties are given an opportunity for a public hearing, which shall be expedited in such cases, and after such order is final, by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the

lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 813 of this title, section 814 of this title, or section 817 of this title, all miners employed at the affected mine who would have been withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated. The Commission shall have authority to order compensation due under this section upon the filing of a complaint by a miner or his representative and after opportunity for hearing subject to section 554 of title 5.

(As amended Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1312.)

AMENDMENTS

1977—Pub. L. 95-164 substituted provisions relating to the entitlement of miners to their full compensation when they are idled as the result of the operation of this chapter for provisions relating to the maintenance of records, which provisions, as revised, were transferred to section 813 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 822. Representation of Secretary in civil litigation by Solicitor of Labor

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter but all such litigation shall be subject to the direction and control of the Attorney General.

(Pub. L. 91-173, title I, § 112, as added Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1313.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 816(f) of this title prior to the amendment of this subchapter by Pub. L. 95-164.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 823. Federal Mine Safety and Health Review Commission

(a) Establishment; membership; chairman

The Federal Mine Safety and Health Review Commission is hereby established. The Commission shall consist of five members, appointed by the President by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this chapter. The President shall designate one of the members of the Commission to serve as Chairman.

(b) Terms; personnel; administrative law judges

(1) The terms of the members of the Commission shall be six years, except that—

(A) members of the Commission first taking office after November 9, 1977, shall serve, as designated by the President at the time of appointment, one for a term of two years, two for a term of four years and two for a term of six years; and

(B) a vacancy caused by the death, resignation, or removal of any member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(2) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Commission shall appoint such employees as it deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and general pay rates. Upon the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the administrative law judges assigned to the Arlington, Virginia, facility of the Office of Hearings and Appeals, United States Department of the Interior, shall be automatically transferred in grade and position to the Federal Mine Safety and Health Review Commission. Notwithstanding the provisions of section 559 of title 5, the incumbent Chief Administrative Law Judge of the Office of Hearings and Appeals of the Department of the Interior assigned to the Arlington, Virginia facility shall have the option, on the effective date of the Federal Mine Safety and Health Amendments Act of 1977, of transferring to the Commission as an administrative law judge, in the same grade and position as the other administrative law judges. The administrative law judges (except those presiding over Indian Probate Matters) assigned to the Western facilities of the Office of Hearings and Appeals of the Department of the Interior shall remain with that Department at their present grade and position or they shall have the right to transfer on an equivalent basis to that extended in this paragraph to the Arlington, Virginia administrative law judges in accordance with procedures established by the Civil Service Commission. The Commission shall appoint such additional administrative law judges as it deems necessary to carry out the functions of the Commission. Assignment, removal, and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5362 and 7521 of title 5.

(c) Delegation of powers

The Commission is authorized to delegate to any group of three or more members any or all of the powers of the Commission, except that

two members shall constitute a quorum of any group designated pursuant to this paragraph.

(d) Proceedings before administrative law judge; administrative review

(1) An administrative law judge appointed by the Commission to hear matters under this chapter shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the chief administrative law judge of the Commission or by the Commission, and shall make a decision which constitutes his final disposition of the proceedings. The decision of the administrative law judge of the Commission shall become the final decision of the Commission 40 days after its issuance unless within such period the Commission has directed that such decision shall be reviewed by the Commission in accordance with paragraph (2). An administrative law judge shall not be assigned to prepare a recommended decision under this chapter.

(2) The Commission shall prescribe rules of procedure for its review of the decisions of administrative law judges in cases under this chapter which shall meet the following standards for review:

(A)(i) Any person adversely affected or aggrieved by a decision of an administrative law judge, may file and serve a petition for discretionary review by the Commission of such decision within 30 days after the issuance of such decision. Review by the Commission shall not be a matter of right but of the sound discretion of the Commission.

(ii) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(I) A finding or conclusion of material fact is not supported by substantial evidence.

(II) A necessary legal conclusion is erroneous.

(III) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission.

(IV) A substantial question of law, policy or discretion is involved.

(V) A prejudicial error or procedure was committed.

(iii) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass. Review by the Commission shall be granted only by affirmative vote of two of the Commissioners present and voting. If granted, review shall be limited to the questions raised by the petition.

(B) At any time within 30 days after the issuance of a decision of an administrative law judge, the Commission may in its discretion (by affirmative vote of two of the Commissioners present and voting) order the case before it for review but only upon the ground that the decision may be contrary to law or Commission policy, or that a novel question of policy has been presented. The Commission shall state in such order the specific issue of law, Commission policy, or novel question of policy involved. If a party's petition for discretionary review has been granted, the Commission shall not raise or consider additional issues in such review proceedings except in compliance with the requirements of this paragraph.

(C) For the purpose of review by the Commission under paragraph (A) or (B) of this subsection, the record shall include: (i) all matters constituting the record upon which the decision of the administrative law judge was based; (ii) the rulings upon proposed findings and conclusions; (iii) the decision of the administrative law judge; (iv) the petition or petitions for discretionary review, responses thereto, and the Commission's order for review; and (v) briefs filed on review. No other material shall be considered by the Commission upon review. The Commission either may remand the case to the administrative law judge for further proceedings as it may direct or it may affirm, set aside, or modify the decision or order of the administrative law judge in conformity with the record. If the Commission determines that further evidence is necessary on an issue of fact it shall remand the case for further proceedings before the administrative law judge.

(The provisions of section 557(b) of title 5 with regard to the review authority of the Commission are expressly superseded to the extent that they are inconsistent with the provisions of subparagraphs (A), (B), and (C) of this paragraph.)

(e) Witnesses and evidence; subpoenas; contempt

In connection with hearings before the Commission or its administrative law judges under this chapter, the Commission and its administrative law judges may compel the attendance and testimony of witnesses and the production of books, papers, or documents, or objects, and order testimony to be taken by deposition at any stage of the proceedings before them. Any person may be compelled to appear and depose and produce similar documentary or physical evidence, in the same manner as witnesses may be compelled to appear and produce evidence before the Commission and its administrative law judges. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States and at depositions ordered by such courts. In case of contumacy, failure, or refusal of any person to obey a subpoena or order of the Commission or an administrative law judge, respectively, to appear, to testify, or to produce documentary or physical evidence, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides, or transacts business, shall, upon the application of the Commission, or the administrative law judge, respectively, have jurisdiction to issue to such person an order requiring such person to appear, to testify, or to produce evidence as or-

dered by the Commission or the administrative law judge, respectively, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(Pub. L. 91-173, title I, § 113, as added Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1313.)

REFERENCES IN TEXT

For the effective date of the Federal Mine Safety and Health Amendments Act of 1977, referred to in subsec. (b)(2), see section 307 of Pub. L. 95-164 set out as an Effective Date of 1977 Amendment note under section 801 of this title.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 729 of this title prior to its repeal by Pub. L. 95-164.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 823a. Principal office in District of Columbia; proceedings held elsewhere

The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that convenience of the public or the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

(Pub. L. 95-164, title III, § 302(d), Nov. 9, 1977, 91 Stat. 1320.)

CODIFICATION

Section was enacted as part of Pub. L. 95-164, known as the Federal Mine Safety and Health Amendments Act of 1977 and not as part of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which comprises this chapter.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 824. Authorization of appropriations

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 91-173, title I, § 114, as added Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1315.)

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 825. Mandatory health and safety training

(a) Approved program; regulations

Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. The Secretary shall promulgate regulations with respect to such health and safety training programs not more than 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977. Each training program approved by the Secretary shall provide as a minimum that—

(1) new miners having no underground mining experience shall receive no less than 40 hours of training if they are to work underground. Such training shall include instruction in the statutory rights of miners and their representatives under this chapter, use of the self-rescue device and use of respiratory devices, hazard recognition, escapeways, walk around training, emergency procedures, basic ventilation, basic roof control, electrical hazards, first aid, and the health and safety aspects of the task to which he will be assigned;

(2) new miners having no surface mining experience shall receive no less than 24 hours of training if they are to work on the surface. Such training shall include instruction in the statutory rights of miners and their representatives under this chapter, use of the self-rescue device where appropriate and use of respiratory devices where appropriate, hazard recognition, emergency procedures, electrical hazards, first aid, walk around training and the health and safety aspects of the task to which he will be assigned;

(3) all miners shall receive no less than eight hours of refresher training no less frequently than once each 12 months, except that miners already employed on the effective date of the Federal Mine Safety and Health Amendments Act of 1977 shall receive this refresher training no more than 90 days after the date of approval of the training plan required by this section;

(4) any miner who is reassigned to a new task in which he has had no previous work experience shall receive training in accordance with a training plan approved by the Secretary under this subsection in the safety and health aspects specific to that task prior to performing that task;

(5) any training required by paragraphs (1), (2) or (4) shall include a period of training as closely related as is practicable to the work in which the miner is to be engaged.

(b) Training compensation

Any health and safety training provided under subsection (a) of this section shall be provided during normal working hours. Miners shall be paid at their normal rate of compensation while they take such training, and new miners shall be paid at their starting wage rate when they take the new miner training. If such training shall be given at a location other than the normal place of work, miners shall also be compensated for the additional costs they may incur in attending such training sessions.

(c) Certificate

Upon completion of each training program, each operator shall certify, on a form approved by the Secretary, that the miner has received

the specified training in each subject area of the approved health and safety training plan. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, he shall be entitled to a copy of his health and safety training certificates. False certification by an operator that training was given shall be punishable under section 820(a) and (f) of this title; and each health and safety training certificate shall indicate on its face, in bold letters, printed in a conspicuous manner the fact that such false certification is so punishable.

(d) Standards

The Secretary shall promulgate appropriate standards for safety and health training for coal or other mine construction workers.

(e) Proposed regulations

Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine.

(Pub. L. 91-173, title I, § 115, as added Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1315.)

REFERENCES IN TEXT

For the effective date of the Federal Mine Safety and Health Amendments Act of 1977, referred to in subsecs. (a) opening par., (3), and (e), (2), see section 307 of Pub. L. 95-164 set out as an Effective Date of 1977 Amendment note under section 801 of this title.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 814 of this title.

SUBCHAPTER II—INTERIM MANDATORY HEALTH STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 802, 813, 878, 938, 954, 960 of this title

§ 842. Dust concentration and respiratory equipment

[*See main edition for text of (a) to (d)*]

(e) Concentration of respirable dust

References to concentrations of respirable dust in this subchapter mean the average concentration of respirable dust measured with a device approved by the Secretary and the Secretary of Health, Education, and Welfare.

[*See main edition for text of (f) to (h)*]

(As amended Pub. L. 95-164, title II, § 202(a), Nov. 9, 1977, 91 Stat. 1317.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-164 substituted a general reference to an "approved device" used to measure the average concentration of respirable dust for provisions which had referred to a specific device known as an "MRE instrument".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SUBCHAPTER III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

§ 861. Mandatory safety standards for underground mines

[*See main edition for text of (a)*]

(b) Purpose; initiation of studies and research

The purpose of this subchapter is to provide for the immediate application of mandatory safety standards developed on the basis of experience and advances in technology and to prevent newly created hazards resulting from new technology in coal mining. The Secretary of the Interior in coordination with the Secretary shall immediately initiate studies, investigations, and research to further upgrade such standards and to develop and promulgate new and improved standards promptly that will provide increased protection to the miners, particularly in connection with hazards from trolley wires, trolley feeder wires, and signal wires, the splicing and use of trailing cables, and in connection with improvements in vulcanizing of electric conductors, improvement in roof control measures, methane drainage in advance of mining, improved methods of measuring methane and other explosive gases and oxygen concentrations, and the use of improved underground equipment and other sources of power for such equipment.

(c), (d) Repealed. Pub. L. 95-164, title II, § 203(b), Nov. 9, 1977, 91 Stat. 1317

(As amended Pub. L. 95-164, title II, § 203, Nov. 9, 1977, 91 Stat. 1317.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-164, § 203(a), substituted "The Secretary of the Interior in coordination with the Secretary shall immediately initiate studies" for "The Secretary shall immediately initiate studies".

Subsecs. (c), (d). Pub. L. 95-164, § 203(b), struck out subsec. (c), which had related to the modification of standards, and subsec. (d), which had related to the applicability of section 553 of title 5 in cases where the provisions of sections 862 to 878 of this title had provided that certain actions, conditions, or requirements be carried out as prescribed by the Secretary or the Secretary of Health, Education, and Welfare.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective

Date of 1977 Amendment note under section 801 of this title.

§ 878. Definitions

For the purpose of this subchapter and subchapter II of this chapter, the term—

[*See main edition for text of* (a) *to* (j)]

(k) Repealed. Pub. L. 95-164, title II, § 202(b), Nov. 9, 1977, 91 Stat. 1317.

[*See main edition for text of* (l)]

(As amended Pub. L. 95-164, title II, § 202(b), Nov. 9, 1977, 91 Stat. 1317.)

AMENDMENTS

1977—Subsec. (k). Pub. L. 95-164 struck out subsec. (k) which had defined "respirable dust" as dust particles 5 microns or less in size.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 841 of this title.

SUBCHAPTER IV—BLACK LUNG BENEFITS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 802, 820 of this title.

§ 902. Definitions

For purposes of this subchapter—

[*See main edition for text of* (a) *to* (g)]

CODIFICATION

The first line of text is set out in this supplement to correct an error of omission in the main edition.

SUBCHAPTER V—ADMINISTRATIVE PROVISIONS

§ 951. Studies and research

(a) Appropriate projects

The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall conduct such studies, research, experiments, and demonstrations as may be appropriate—

(1) to improve working conditions and practices in coal or other mines, and to prevent accidents and occupational diseases originating in the coal or other mining industry;

(2) to develop new or improved methods of recovering persons in coal or other mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground area of a coal or other mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine atmosphere of active workings of the coal or other mine;

[*See main edition for text of* (5) *to* (8)]

(9) to study the relationship between coal or other mine environments and occupational diseases of miners;

(10) to develop new and improved underground equipment and other sources of power for such equipment which will provide greater safety;

(11) to determine, upon the written request by any operator or authorized representative of miners, specifying with reasonable particularity the grounds upon which such request is made, whether any substance normally found in a coal or other mine has potentially toxic effects in the concentrations normally found in the coal or other mine or whether any physical agents or equipment found or used in a coal or other mine has potentially hazardous effects, and shall submit such determinations to both the operators and miners as soon as possible; and

(12) for such other purposes as they deem necessary to carry out the purposes of this chapter.

(b) Responsibility for carrying out prescribed activities

Activities under this section in the field of coal or other mine health shall be carried out by the Secretary of Health, Education, and Welfare through the National Institute for Occupational Safety and Health established under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.], and activities under this section in the field of coal or other mine safety shall be carried out by the Secretary of the Interior in coordination with the Secretary.

(c) Contracting with and grants to public and private agencies; availability of information; exceptions

In carrying out the provisions for research, demonstrations, experiments, studies, training, and education under this section and sections 861(b) and 952(a) of this title, the Secretary of the Interior and the Secretary of Health, Education, and Welfare in coordination with the Secretary may enter into contracts with, and make grants to, public and private agencies and organizations and individuals. No research, demonstrations, or experiments shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this chapter, unless all information, uses, products, processes, patents, and other developments resulting from such research, demonstrations, or experiments will (with such exception and limitation, if any, as the Secretary of the Interior or the Secretary of Health, Education, and Welfare in coordination with the Secretary may find to be necessary in the public interest) be available to the general public.

(d) Prevention of diseases affecting persons working with mine products

The Secretary of Health, Education, and Welfare shall also conduct studies and research into matters involving the protection of life and the prevention of diseases in connection with persons, who although not miners, work with, or around the products of, coal or other mines in areas outside of such mines and under condi-

tions which may adversely affect the health and well-being of such persons.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out his responsibilities under this section and section 861(b) of this title at an annual rate of not to exceed $20,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $60,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year thereafter. There is authorized to be appropriated annually to the Secretary of Health, Education, and Welfare such sums as may be necessary to carry out his responsibilities under this chapter. Such sums shall remain available until expended.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-164, title III, § 303(a), Nov. 9, 1977, 91 Stat. 1320.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164, § 303(a)(1), (2), (6), substituted "The Secretary of the Interior and" for "The Secretary and" in the provisions preceding par. (1), added references to mines and mining other than coal mines and coal mining in pars. (1), (2), (3), (4), and (9), added par. (11), and redesignated former par. (11) as (12).

Subsec. (b). Pub. L. 95-164, § 303(a)(1), (3), added references to mines other than coal mines, added "through the National Institute for Occupational Safety and Health established under the Occupational Safety and Health Act of 1970" following "Secretary of Health, Education, and Welfare", and substituted "carried out by the Secretary of the Interior in coordination with the Secretary" for "carried out by the Secretary".

Subsec. (c). Pub. L. 95-164, § 303(a)(4), substituted "the Secretary of the Interior and the Secretary of Health, Education, and Welfare in coordination with the Secretary" for "the Secretary and the Secretary of Health, Education, and Welfare" and "the Secretary of the Interior or the Secretary of Health, Education, and Welfare in coordination with the Secretary" for "the Secretary or the Secretary of Health, Education, and Welfare".

Subsec. (d). Pub. L. 95-164, § 303(a)(1), added reference to mines other than coal mines.

Subsec. (e). Pub. L. 95-164, § 303(a)(5), substituted "Secretary of the Interior" for "Secretary" and "$60,000,000" for "$30,000,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 952, 958, 961 of this title.

§ 952. Training and education

(a) Programs for operators, agents, and miners

The Secretary shall expand programs for the education and training of operators and agents thereof, and miners in—

(1) the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in coal or other mines; and

(2) in the use of flame safety lamps, permissible methane detectors, and other means approved by the Secretary for detecting methane and other explosive gases accurately.

(b) Technical assistance to operators

The Secretary shall, to the greatest extent possible, provide technical assistance to operators in meeting the requirements of this chapter and in further improving the health and safety conditions and practices in coal or other mines.

(c) National Mine Health and Safety Academy

(1) The National Mine Health and Safety Academy shall be maintained as an agency of the Department of the Interior. The Academy shall be responsible for the training of mine safety and health inspectors under section 954 of this title, and in training of technical support personnel of the Mine Safety and Health Administration established under section 557a of title 29; and for any other training programs for mine inspectors, mining personnel, or other persons as the Secretaries of Labor and the Interior shall designate. In performing this function, the Academy shall have the authority to enter into cooperative educational and training agreements with educational institutions, State governments, labor organizations, and mine operators and related industries. Such training shall be conducted by the Academy in accordance with curriculum needs and assignment of instructional personnel established by the user.

(2) In performing its function pursuant to this section, the National Mine Health and Safety Academy shall use the facilities and personnel of the Department of the Interior, and such other personnel as shall be mutually agreed upon by the Secretaries of Labor and the Interior. The Secretary of the Interior may appoint or assign to the Academy such officers and employees as he deems necessary for the performance of the duties and functions of the Academy.

(3) The Secretary of the Interior shall conduct his safety research responsibilities under section 951 of this title in coordination with the Secretary of Labor, and the Secretaries of Labor and the Interior are authorized to enter into contractual or other agreements for the performance of such safety related research.

(As amended Pub. L. 95-164, title III, § 303(b), (h), Nov. 9, 1977, 91 Stat. 1320, 1321.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-164, § 303(b), added references to mines other than coal mines.

Subsec. (c). Pub. L. 95-164, § 303(h), added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 953. Assistance to States

(a) Development and enforcement of health and safety regulations; improvement of workmen's compensation and occupational disease laws; promotion of Federal-State coordination in mine safety

The Secretary, in coordination with the Secretary of Health, Education, and Welfare and the Secretary of the Interior, is authorized to make grants in accordance with an application approved under this section to any State in which coal or other mining takes place—

(1) to assist such State in developing and enforcing effective coal or other mine health and safety laws and regulations consistent with the provisions of section 955 of this title;

(2) to improve State workmen's compensation and occupational disease laws and programs related to coal or other mine employment; and

(3) to promote Federal-State coordination and cooperation in improving the health and safety conditions in the coal or other mines.

(b) Application for grants; contents

The Secretary shall approve any application or any modification thereof, submitted under this section by a State, through its official coal or other mine inspection or safety agency, which—

(1) sets forth the programs, policies, and methods to be followed in carrying out the application in accordance with the purposes of subsection (a) of this section;

(2) provides research and planning studies to carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation to miners for occupationally caused diseases and injuries arising out of employment in any coal or other mine;

(3) designates such State coal or other mine inspection or safety agency as the sole agency responsible for administering grants under this section throughout the State, and contains satisfactory evidence that such agency will have the authority to carry out the purposes of this section;

(4) gives assurances that such agency has or will employ an adequate and competent staff of trained inspectors qualified under the laws of such State to make coal or other mine inspections within such State;

(5) provides for the extension and improvement of the State program for the improvement of coal or other mine health and safety in the State, and provides that no advance notice of an inspection will be provided anyone;

(6) provides such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of grants made to the States under this section;

(7) provides that the designated agency will make such reports to the Secretary in such form and containing such information as the Secretary may from time to time require;

(8) contains assurances that grants provided under this section will supplement, not supplant, existing State coal or other mine health and safety programs; and

(9) meets additional conditions which the Secretary may prescribe in furtherance of, and consistent with, the purposes of this section.

[*See main edition for text of* (c) *to* (e)]

(f) Cooperation in implementation of programs; exchange of reports between States

The Secretary shall cooperate with such State in carrying out the application or modification thereof and shall, as appropriate, develop and, where appropriate, construct facilities for, and finance a program of, training of Federal and State inspectors jointly. The Secretary shall also cooperate with such State in establishing a system by which State and Federal inspection reports of coal or other mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

(g) Limitation on grants

The amount granted to any coal or other mining State for a fiscal year under this section shall not exceed 80 per centum of the amount expended by such State in such year for carrying out such application.

(h) Authorization of appropriations

There is authorized to be appropriated $3,000,000 for fiscal year 1970, and $10,000,000 annually in each succeeding fiscal year to carry out the provisions of this section, which shall remain available until expended. The Secretary shall provide for an equitable distribution of sums appropriated for grants under this section to the States where there is an approved application, except that no less than one-half of such sum shall be allocated to coal-producing States.

(As amended Pub. L. 95-164, title III, § 303(c), Nov. 9, 1977, 91 Stat. 1320.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164, § 303(c)(1), added reference to mines and mining other than coal mines and coal mining and substituted "Secretary of the Interior" for Secretary of Labor".

Subsecs. (b), (f), (g). Pub. L. 95-164, § 303(c)(1), added references to mines and mining other than coal mines and coal mining.

Subsec. (h). Pub. L. 95-164, § 303(c)(2), substituted "$10,000,000" for "$5,000,000" and added requirement that no less than one-half of sums appropriated for grants be allocated to coal-producing States.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 954. Appointment of administrative personnel and inspectors; qualifications; training programs

The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this chapter and prescribe their duties. Persons appointed as authorized representatives of the Secretary shall be qualified by practical experience in mining or by experience as a practical mining engineer or by education: *Provided, however,* That, to the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualification of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to the extent possible to their previous experience in the particular type of mining operation where such inspections are to be made. Persons appointed to assist such representatives in the taking of samples of respirable dust for the purpose of enforcing subchapter II of this chapter shall be qualified by training, experience, or education. The provisions of section 201 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270) shall not apply with respect to the appointment of such authorized representatives of the Secretary or to persons appointed to assist such representatives and to carry out the provisions of this chapter, and, in applying the provisions of such section to other agencies under the Secretary and to other agencies of the Government, such appointed persons shall not be taken into account. Such persons shall be adequately trained by the Secretary. The Secretary shall develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this chapter. In selecting persons and training and retraining persons to carry out the provisions of this chapter, the Secretary shall work with appropriate educational institutions, operators, and representatives of miners in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and where appropriate, the Secretary shall cooperate with such institutions in carrying out the provisions of this section by providing financial and technical assistance to such institutions.

(As amended Pub. L. 95-164, title III, § 303(d), Nov. 9, 1977, 91 Stat. 1320.)

AMENDMENTS

1977—Pub. L. 95-164 substituted "practical experience in mining" for "practical experience in the mining of coal" and added provision requiring that mine inspectors, to the maximum feasible extent, be persons with at least five years practical mining experience and that in assigning inspectors due consideration be given to previous experience in the particular type mining operations where inspections are to be made.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

NUMBER OF INSPECTORS

Section 304 of Pub. L. 95-164 provided that: "Nothing contained in this Act [see Short Title of 1977 Amendment note under section 801 of this title] or any amendment made by this Act shall be construed to reduce the number of inspectors engaged in enforcement of the Federal Coal Mine Health and Safety Act of 1969 [this chapter] and the Federal Metal and Nonmetallic Mine Safety Act [section 721 et seq. of this title] as in effect prior to the effective date of this Act [120 days after Nov. 9, 1977] or to reduce the number of inspectors engaged in the enforcement of the Occupational Safety and Health Act of 1970 [section 651 et seq. of Title 29, Labor]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 952 of this title.

§ 955. State laws

[*See main edition for text of* (a)]

(b) The provisions of any State law or regulation in effect upon the operative date of this chapter, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal or other mines than do the provisions of this chapter or any order issued or any mandatory health or safety standard shall not thereby be construed or held to be in conflict with this chapter. The provisions of any State law or regulation in effect December 30, 1969, or which may become effective thereafter, which provide for health and safety standards applicable to coal or other mines for which no provision is contained in this chapter or in any order issued or any mandatory health or safety standard, shall not be held to be in conflict with this chapter.

(As amended Pub. L. 95-164, title III, § 303(e), Nov. 9, 1977, 91 Stat. 1321.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-164 added reference to mines other than coal mines.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 958. Annual reports to Congress; contents

(a) Within one hundred and twenty days following the convening of each session of Congress the Secretary shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the subject matter of this chapter, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal or other mine health and safety, the amount and status of each loan made pursuant to this chapter, a description and the anticipated cost of each project and program he has undertaken under sections 861(b) and 951 of this title, and any other relevant information, including any recommendations he deems appropriate.

(b) Within one hundred and twenty days following the convening of each session of Congress, the Secretary of Health, Education, and Welfare shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the health matters covered by this chapter, including the progress toward the achievement of the health purposes of this chapter, the needs and requirements in the field of coal or other mine health, a description and the anticipated cost of each project and program he has undertaken under sections 861(b) and 951 of this title and any other relevant information, including any recommendations he deems appropriate. The first such report shall include the recommendations of the Secretary of Health, Education, and Welfare as to necessary mandatory health standards, including his recommendations as to the maximum permissible individual exposure to miners from respirable dust during a shift.

(As amended Pub. L. 95-164, title III, § 303(f), Nov. 9, 1977, 91 Stat. 1321.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-164 added references to mines other than coal mines.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 959. Study of coordination of Federal and State activities; report

(a) The Secretary shall make a study to determine the best manner to coordinate Federal and State activities in the field of coal or other mine health and safety so as to achieve (1) maximum health and safety protection for miners, (2) an avoidance of duplication of effort, (3) maximum effectiveness, (4) a reduction of delay to a minimum, and (5) most effective use of Federal inspectors.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-164, title III, § 303(g), Nov. 9, 1977, 91 Stat. 1321.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-164 added reference to mines other than coal mines.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 961. Functions transferred under 1977 amendments

(a) Transfer of functions to Secretary of Labor

Except with respect to the functions assigned to the Secretary of the Interior pursuant to section 501 of the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 951], the functions of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969, as amended [30 U.S.C. 801 et seq.], and the Federal Metal and Nonmetallic Mine Safety Act [30 U.S.C. 721 et seq.] are transferred to the Secretary of Labor, except those which are expressly transferred to the Commission by this Act.

(b) Existing mandatory standards; review by advisory committee; recommendations

(1) The mandatory standards relating to mines, issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act [30 U.S.C. 721 et seq.] and standards and regulations under the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 801 et seq.] which are in effect on November 9, 1977, shall remain in effect as mandatory health or safety standards applicable to metal and nonmetallic mines and to coal mines respectively under the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 801 et seq.] until such time as the Secretary of Labor shall issue new or revised mandatory health or safety standards applicable to metal and nonmetallic mines and new or revised mandatory health or safety standards applicable to coal mines.

(2) Within 60 days after November 9, 1977, the Secretary of Labor in consultation with the Secretary of the Interior shall establish an advisory committee under section 102 of the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 812] which shall, within 180 days after the date of the establishment of such advisory committee, review the advisory health and safety standards issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act and recommend to the Secretary of Labor which of those standards (or any modifications of such standards which do not substantially diminish the health and safety of miners) should be promulgated as mandatory health or safety standards. The Secretary of Labor shall publish, within 60 days after any recommendations of the advisory committee under this paragraph, each of the standards so recommended for adoption with or without modifications as a proposed mandatory health or safety standard under this section by publication of such standard in the Federal Register, and afford interested persons a period of 25 days after publication to submit written data or comment. Within 30 days after the close of the comment period specified in the preceding sentence, the Secretary of Labor shall promulgate by publication in the Federal Register mandatory health or safety standards based upon the advisory committee recommendation with or without modification, and the data and comments received thereon, unless the Secretary of Labor determines that such standards will not promote the health and safety of miners and publishes an explanation of that determination in the Federal Register.

(c) Unexpended appropriations; personnel; property; records; obligations; commitments; savings provisions; pending proceedings and suits

(1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any functions transferred

under the provisions of subsection (a) of this section to the Secretary of Labor shall be transferred to the Department of Labor or the Commission, as appropriate. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary of Labor shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this Act.

(2) All orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission or other authorized officials, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department, agency, or component thereof, functions of which are transferred by this section, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Secretary of Labor or the Federal Mine Safety and Health Review Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, revoked, or repealed by the Secretary of Labor, the Federal Mine Safety and Health Review Commission, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this section had not been enacted.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary of Labor. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(d) Definition

For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer or officer of such agency or department.

(e) Determinations by Director of Office of Management and Budget

The Director of the Office of Management and Budget in consultation with the Secretary of Labor and the Secretary of the Interior is authorized and directed to make such determinations as may be necessary with regard to the dispositions of personnel, personnel positions, property, records, assets, liabilities, contracts, obligations, commitments, unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

(Pub. L. 95-164, title III, § 301, Nov. 9, 1977, 91 Stat. 1317.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in subsecs. (a), (b)(1), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, and is classified principally to this chapter (§ 801 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

This Act, referred to in subsecs. (a), (c)(1), and (e), means Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290, known as the Federal Mine Safety and Health Amendments Act of 1977, which enacted sections 822 to 825 and 961 of this title and section 557a of Title 29, Labor, amended sections 801 to 804, 811 to 821, 842, 861, 878, 951 to 955, 958 and 959 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, repealed sections 721 to 740 of this title and section 1456a of Title 43, Public Lands, and enacted provisions set out as notes under sections 801 and 954 of this title and section 11 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 1977 amendment note under section 801 of this title and Tables.

The Federal Metal and Nonmetallic Mine Safety Act, referred to in subsecs. (a) and (b), is Pub. L. 89-577, Sept. 16, 1966, 80 Stat. 772, which was classified generally to chapter 21 (§ 721 et seq.) of this title and was repealed by Pub. L. 95-164, title III, § 306(a), Nov. 9, 1977, 91 Stat. 1322.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(1), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, which is classified principally to this chapter (§ 801 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

For the time this section takes effect, referred to in subsec. (c)(2) and (4), see Effective Date of 1977 Amendment note set out under section 801 of this title.

CODIFICATION

Section was enacted as part of Pub. L. 95-164, known as the Federal Mine Safety and Health Amendments Act of 1977, and not as part of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which comprises this chapter.

EFFECTIVE DATE

For the effective date of this section, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

CHAPTER 23—GEOTHERMAL STEAM AND ASSOCIATED GEOTHERMAL RESOURCES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 7152.

§ 1003. Bids; competitive bidding; first application of qualified person without competitive bidding

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

§ 1014. Lands subject to geothermal leasing

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 1023. Rules and regulations; scope of provisions

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

CHAPTER 24—GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION

§ 1121. Formation of project

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

The Federal Energy Administration was terminated and all functions were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1126. Scientific and technical education

TRANSFER OF FUNCTIONS

Functions of the National Science Foundation relating to geothermal power development were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

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SUBCHAPTER I—STATEMENT OF FINDINGS AND POLICY

§ 1201. Congressional findings

The Congress finds and declares that—

(a) extraction of coal and other minerals from the earth can be accomplished by various methods of mining, including surface mining;

(b) coal mining operations presently contribute significantly to the Nation's energy requirements; surface coal mining constitutes one method of extraction of the resource; the overwhelming percentage of the Nation's coal reserves can only be extracted by underground mining methods, and it is, therefore, essential to the national interest to insure the existence of an expanding and economically healthy underground coal mining industry;

(c) many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources;

(d) the expansion of coal mining to meet the Nation's energy needs makes even more urgent the establishment of appropriate standards to minimize damage to the environment and to productivity of the soil and to protect the health and safety of the public.[1]

(e) surface mining and reclamation technology are now developed so that effective and reasonable regulation of surface coal mining operations by the States and by the Federal Government in accordance with the requirements of this chapter is an appropriate and necessary means to minimize so far as practicable the adverse social, economic, and environmental effects of such mining operations;

(f) because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this chapter should rest with the States;

(g) surface mining and reclamation standards are essential in order to insure that competition in interstate commerce among sellers of coal produced in different States will not be used to undermine the ability of the several States to improve and maintain adequate standards on coal mining operations within their borders;

(h) there are a substantial number of acres of land throughout major regions of the United States disturbed by surface and underground coal on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality;

(i) while there is a need to regulate surface mining operations for minerals other than coal, more data and analyses are needed to serve as a basis for effective and reasonable regulation of such operations;

(j) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner; and

(k) the cooperative effort established by this chapter is necessary to prevent or miti-

[1] So in original. Probably should be a semicolon.

gate adverse environmental effects of present and future surface coal mining operations.

(Pub. L. 95-87, title I, § 101, Aug. 3, 1977, 91 Stat. 447.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (e), (f), and (k), in the original read "this Act", meaning Pub. L. 95-87, Aug. 3, 1977, 91 Stat. 448, which enacted this chapter and amended section 1114 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

SHORT TITLE

Section 1 of Pub. L. 95-87 provided: "That this Act [which enacted this chapter and amended section 1114 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Surface Mining Control and Reclamation Act of 1977'."

§ 1202. Statement of purpose

It is the purpose of this chapter to—

(a) establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(c) assure that surface mining operations are not conducted where reclamation as required by this chapter is not feasible;

(d) assure that surface coal mining operations are so conducted as to protect the environment;

(e) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(f) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy;

(g) assist the States in developing and implementing a program to achieve the purposes of this chapter;

(h) promote the reclamation of mined areas left without adequate reclamation prior to August 3, 1977, and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public;

(i) assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this chapter;

(j) provide a means for development of the data and analyses necessary to establish effective and reasonable regulation of surface mining operations for other minerals;

(k) encourage the full utilization of coal resources through the development and application of underground extraction technologies;

(l) stimulate, sponsor, provide for and/or supplement present programs for the conduct of research investigations, experiments, and demonstrations, in the exploration, extraction, processing, development, and production of minerals and the training of mineral engineers and scientists in the field of mining, minerals resources, and technology, and the establishment of an appropriate research and training center in various States; and

(m) wherever necessary, exercise the full reach of Federal constitutional powers to insure the protection of the public interest through effective control of surface coal mining operations.

(Pub. L. 95-87, title I, § 102, Aug. 3, 1977, 91 Stat. 448.)

SUBCHAPTER II—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1291 of this title.

§ 1211. Office of Surface Mining Reclamation and Enforcement

(a) Establishment

There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

(b) Appointment, compensation, duties, etc., of Director; employees

The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, and such other employees as may be required. Pursuant to section 5108 of title 5, and after consultation with the Secretary, a majority of members of the Civil Service Commission shall determine the necessary number of positions in general schedule employees in grade 16, 17, and 18 to perform functions of this subchapter and shall allocate such positions to the Secretary. The Director shall have the responsibilities provided under subsection (c) of this section and those duties and responsibilities relating to the functions of the Office which the Secretary may assign, consistent with this chapter. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer the provisions of this chapter. The Office may use, on a reimbursable basis when appropriate, employees of the Department and other Federal agencies to administer the provisions of this chapter, providing that no legal authority, program, or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources or regulating the health and safety of miners under provisions of the Federal Coal Mine Health and

Safety Act of 1969 (83 Stat. 742) [30 U.S.C. 801 et seq.], shall be transferred to the Office.

(c) Duties of Secretary

The Secretary, acting through the Office, shall—

(1) administer the programs for controlling surface coal mining operations which are required by this chapter; review and approve or disapprove State programs for controlling surface coal mining operations and reclaiming abandoned mined lands; make those investigations and inspections necessary to insure compliance with this chapter; conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed material as provided for in this chapter; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this chapter or any rules and regulations adopted pursuant thereto;

(2) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this chapter;

(3) administer the State grant-in-aid program for the development of State programs for surface and mining and reclamation operations provided for in subchapter V of this chapter;

(4) administer the program for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to subchapter IV of this chapter;

(5) administer the surface mining and reclamation research and demonstration project authority provided for in this chapter;

(6) consult with other agencies of the Federal Government having expertise in the control and reclamation of surface mining operations and assist States, local governments, and other eligible agencies in the coordination of such programs;

(7) maintain a continuing study of surface mining and reclamation operations in the United States;

(8) develop and maintain an Information and Data Center on Surface Coal Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and the Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(9) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of this chapter, and at the same time, reflect local requirements and local environmental and agricultural conditions;

(10) assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of surface coal mining pursuant to section 1272 of this title;

(11) monitor all Federal and State research programs dealing with coal extraction and use and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating adverse environmental and social impacts;

(12) cooperate with other Federal agencies and State regulatory authorities to minimize duplication of inspections, enforcement, and administration of this chapter; and

(13) perform such other duties as may be provided by law and relate to the purposes of this chapter.

(d) Restriction on use of Federal coal mine health and safety inspectors

The Director shall not use either permanently or temporarily any person charged with responsibility of inspecting coal mines under the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 801 et seq.], unless he finds and publishes such finding in the Federal Register, that such activities would not interfere with such inspections under the 1969 Act.

(e) Independent Federal regulatory agency

The Office shall be considered an independent Federal regulatory agency for the purposes of sections 3502 and 3512 of title 44.

(f) Conflict of interest; penalties; rules and regulations; report to Congress

No employee of the Office or any other Federal employee performing any function or duty under this chapter shall have a direct or indirect financial interest in underground or surface coal mining operations. Whoever knowingly violates the provisions of the above sentence shall, upon conviction, be punished by a fine of not more than $2,500, or by imprisonment for not more than one year, or both. The Director shall (1) within sixty days after August 3, 1977, publish regulations, in accordance with section 553 of title 5, to establish the methods by which the provisions of this subsection will be monitored and enforced, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning their financial interests which may be affected by this subsection, and (2) report to the Congress as part of the annual report (section 1296 of this title) on the actions taken and not taken during the preceding calendar year under this subsection.

(g) Petition for issuance, amendment, or repeal of rule; filing; hearing or investigation; notice of denial

(1) After the Secretary has adopted the regulations required by section 1251 of this title, any person may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of a rule under this chapter.

(2) Such petitions shall be filed in the principal office of the Director and shall set forth the facts which it is claimed established that it is necessary to issue, amend, or repeal a rule under this chapter.

(3) The Director may hold a public hearing or may conduct such investigation or proceeding as the Director deems appropriate in order to

determine whether or not such petition should be granted.

(4) Within ninety days after filing of a petition described in paragraph (1), the Director shall either grant or deny the petition. If the Director grants such petition, the Director shall promptly commence an appropriate proceeding in accordance with the provisions of this chapter. If the Director denies such petition, the Director shall so notify the petitioner in writing setting forth the reasons for such denial.

(Pub. L. 95-87, title II, § 201, Aug. 3, 1977, 91 Stat. 449.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in subsecs. (b) and (d), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, Title I, § 101, Nov. 9, 1977, 91 Stat. 1290, and is classified principally to chapter 22 (§ 801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The general schedule, referred to in subsec. (b), is set out under section 5332 of Title 5, Government Organization and Employees.

SUBCHAPTER III—STATE MINING AND MINERAL RESOURCES AND RESEARCH INSTITUTES

§ 1221. State allotments to institutes; authorization of appropriations

(a) There are authorized to be appropriated to the Secretary of the Interior sums adequate to provide for each participating State $200,000 for fiscal year 1978, $300,000 for fiscal year 1979, and $400,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, or center (hereinafter referred to as "institute") at one public college or university in the State which has in existence at the time of enactment of this subchapter a school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction or which establishes such a school of mines, or division, or department subsequent to August 3, 1977, and which school of mines, or division or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this subchapter shall determine a college or university to have an eligible school of mines, or division or department conducting a program of substantial instruction and research in mining or minerals extraction wherein education and research in the minerals engineering fields are being carried out and wherein at least four full-time permanent faculty members are employed: *Provided*, That—

(1) such moneys when appropriated shall be made available to match, on a dollar-for-dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute;

(2) if there is more than one such eligible college or university in a State, funds under this subchapter shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Governor of the State; and

(3) where a State does not have a public college or university with an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or mineral extraction, said advisory committee may allocate the State's allotment to one private college or university which it determines to have an eligible school of mines, or division, or department as provided herein.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. Such research, investigations, demonstrations, experiments, and training may include, without being limited;[1] exploration; extraction; processing; and development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, and to mining and mineral resources research projects being conducted by agencies of the Federal and State governments, and other institutes.

(Pub. L. 95-87, title III, § 301, Aug. 3, 1977, 91 Stat. 451.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in 1222, 1223 of this title.

§ 1222. Research funds to institutes

(a) Authorization of appropriations

There is authorized to be appropriated annually for seven years to the Secretary of the Interior the sum of $15,000,000 in fiscal year 1978, said sum increased by $2,000,000 each fiscal year thereafter for six years, which shall remain available until expended. Such moneys when appropriated shall be made available to institutes to meet the necessary expenses for purposes of:

(1) specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes, and

[1] So in original. Semi-colon probably should be a comma.

(2) research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which may be deemed desirable and are not otherwise being studied.

(b) Application for grant; contents

Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the estimated costs, the importance of the project to the Nation, region, or State concerned, and its relation to other known research projects theretofore pursued or being pursued, and the extent to which it will provide opportunity for the training of mining and mineral engineers and scientists, and the extent of participation by nongovernmental sources in the project.

(c) Research facilities; selection of institutes; designation of funds for scholarships and fellowships

The Secretary shall, insofar as it is practicable, utilize the facilities of institutes designated in section 1221 of this title to perform such special research, authorized by this section, and shall select the institutes for the performance of such special research on the basis of the qualifications without regard to race or sex of the personnel who will conduct and direct it, and on the basis of the facilities available in relation to the particular needs of the research project, special geographic, geologic, or climatic conditions within the immediate vicinity of the institute in relation to any special requirements of the research project, and the extent to which it will provide opportunity for training individuals as mineral engineers and scientists. The Secretary may designate and utilize such portions of the funds authorized to be appropriated by this section as he deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

(d) Requirements for grants

No grant shall be made under subsection (a) of this section except for a project approved by the Secretary of the Interior and all grants shall be made upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

(e) Restriction on application of grants

No portion of any grant under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

(Pub. L. 95-87, title III, § 302, Aug. 3, 1977, 91 Stat. 452.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1223 of this title.

§ 1223. Funding criteria

(a) Sums available to institutes under the terms of sections 1221 and 1222 of this title shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures which assure that Federal funds made available under this subchapter for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this subchapter, and in no case supplant such funds; have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this subchapter and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this subchapter during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this subchapter shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) Moneys appropriated pursuant to this subchapter shall be available for expenses for research, investigations, experiments, and training conducted under authority of this subchapter. The institutes are hereby authorized and encouraged to plan and conduct programs under this subchapter in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved, and moneys appropriated pursuant to this subchapter shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(Pub. L. 95-87, title III, § 303, Aug. 3, 1977, 91 Stat. 453.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1224 of this title.

§ 1224. Duties of Secretary

(a) Consulting with other agencies; prescribing rules and regulations; furnishing advice and assistance; coordinating research

The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this subchapter and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this subchapter, participate in coordi-

nating research initiated under this subchapter by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) Annual ascertainment of compliance

On or before the 1st day of July in each year after the passage of this subchapter, the Secretary shall ascertain whether the requirements of section 1223(a) of this title have been met as to each institute and State.

(c) Annual report to Congress

The Secretary shall make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this subchapter. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reason therefor.

(Pub. L. 95-87, title III, § 304, Aug. 3, 1977, 91 Stat. 454.)

§ 1225. Effect on colleges and universities

Nothing in this subchapter shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this subchapter shall in any way be construed to authorize Federal control or direction of education at any college or university.

(Pub. L. 95-87, title III, § 305, Aug. 3, 1977, 91 Stat. 454.)

§ 1226. Research

(a) Coordination with existing programs; availability of information to public

The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources, of State and local governments, and of private institutions and individuals to assure that the programs authorized in this subchapter will supplement and not duplicate established mining and minerals research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive nationwide program of mining and minerals research, having due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this subchapter, in addition to any direct publication of information by the institutes themselves.

(b) Effect on Federal agencies

Nothing in this subchapter is intended to give or shall be construed as giving the Secretary of the Interior any authority over mining and mineral resources research conducted by any agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with mining and mineral resources.

(c) Contracts

Contracts or other arrangements for mining and mineral resources research work authorized under this subchapter with an institute, educational institution, or nonprofit organizaton may be undertaken without regard to the provisions of section 529 of title 31 when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work: *Provided,* That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance by appropriation Acts.

(d) Availability of results to public; authorization of appropriation

No research, demonstration, or experiment shall be carried out under this chapter by an institute financed by grants under this chapter, unless all uses, products, processes, patents, and other developments resulting therefrom, with such exception or limitation, if any, as the Secretary may find necessary in the public interest, be available promptly to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent. There are authorized to be appropriated such sums as are necessary for the printing and publishing of the results of activities carried out by institutes under the provisions of this chapter and for administrative planning and direction, but such appropriations shall not exceed $1,000,000 in any fiscal year: *Provided,* That no new budget authority is authorized to be appropriated for fiscal year 1977.

(Pub. L. 95-87, title III, § 306, Aug. 3, 1977, 91 Stat. 454.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1328 of this title.

§ 1227. Center for cataloging

The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as may make such information available.

(Pub. L. 95-87, title III, § 307, Aug. 3, 1977, 91 Stat. 455.)

§ 1228. Interagency cooperation

The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this subchapter. Such coordination shall include—

(a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research;

(b) identification and elimination of duplication and overlap between two or more agency programs;

(c) identification of technical needs in various mining and mineral resources research categories;

(d) recommendations with respect to allocation of technical effort among Federal agencies;

(e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort; and

(f) actions to facilitate interagency communication at management levels.

(Pub. L. 95-87, title III, § 308, Aug. 3, 1977, 91 Stat. 455.)

§ 1229. Advisory Committee on Mining and Mineral Research

(a) Appointment; composition

The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of—

(1) the Director, Bureau of Mines, or his delegate, with his consent;

(2) the Director of the National Science Foundation, or his delegate, with his consent;

(3) the President, National Academy of Sciences, or his delegate, with his consent;

(4) the President, National Academy of Engineering, or his delegate, with his consent;

(5) the Director, United States Geological Survey, or his delegate, with his consent; and

(6) not more than four other persons who are knowledgeable in the fields of mining and mineral resources research, at least one of whom shall be a representative of working coal miners.

(b) Designation of chairman; consultation and recommendations

The Secretary shall designate the Chairman of the Advisory Committee. The Advisory Committee shall consult with, and make recommendations to, the Secretary of the Interior on all matters involving or relating to mining and mineral resources research and such determinations as provided in this subchapter. The Secretary of the Interior shall consult with, and consider recommendations of such Committee in the conduct of mining and mineral resources research and the making of any grant under this subchapter.

(c) Compensation and travel expenses

Advisory Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary but not in excess of the maximum rate of pay for grade GS-18 as provided in the General Schedule under section 5332 of title 5, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5, be fully reimbursed for travel, subsistence, and related expenses.

(Pub. L. 95-87, title III, § 309, Aug. 3, 1977, 91 Stat. 455.)

Termination of Advisory Committees

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER IV—ABANDONED MINE RECLAMATIONS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1211, 1253 of this title.

§ 1231. Abandoned Mine Reclamation Fund

(a) Establishment; administration; State funds

There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior. State abandoned mine reclamation funds (State funds) generated by grants from this subchapter shall be established by each State pursuant to an approved State program.

(b) Sources of deposits to fund

The fund shall consist of amounts deposited in the fund, from time to time derived from—

(1) the reclamation fees levied under section 1232 of this title: *Provided*, That an amount not to exceed 10 per centum of such reclamation fees collected for any calendar quarter shall be reserved beginning in the first calendar year in which the fee is imposed and continuing for the remainder of that fiscal year and for the period in which such fee is imposed by law, for the purpose of section 1257(c) of this title, subject to appropriation pursuant to authorization under section 1302 of this title: *Provided further*, That not more than $10,000,000 shall be available for such purposes;

(2) any user charge imposed on or for land reclaimed pursuant to this subchapter after expenditures for maintenance have been deducted;

(3) donations by persons, corporations, associations, and foundations for the purposes of this subchapter; and

(4) recovered moneys as provided for in this subchapter.

(c) Use of moneys

Moneys in the fund may be used for the following purposes:

(1) reclamation and restoration of land and water resources adversely affected by past coal mining, including but not limited to reclamation and restoration of abandoned surface mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling abandoned deep mine entries and voids; planting of land adversely affected by past coal mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage including restoration of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; and prevention, abatement, and control of coal mine subsidence;

(2) for use under section 1236 of this title, by the Secretary of Agriculture, of up to one-fifth of the money deposited in the funds annually and transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes;

(3) acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 1239 of this title;

(4) acquisition of land as provided for in this subchapter;

(5) enforcement and collection of the reclamation fee provided for in section 1232 of this title;

(6) studies by the Department of the Interior by contract to such extent or in such amounts as are provided in appropriation Acts with public and private organizations to provide information, advice, and technical assistance, including research and demonstration projects, conducted for the purposes of this subchapter;

(7) restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining which constitutes an emergency as provided for in this subchapter;

(8) grants to the States to accomplish the purposes of this subchapter;

(9) administrative expenses of the United States and each State to accomplish the purposes of this subchapter; and

(10) all other necessary expenses to accomplish the purposes of this subchapter.

(d) Moneys available upon appropriation; no fiscal year limitation

Moneys from the fund shall be available for the purposes of this subchapter, only when appropriated therefor, and such appropriations shall be made without fiscal year limitations.

(Pub. L. 95-87, title IV, § 401, Aug. 3, 1977, 91 Stat. 456.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1236, 1291, 1302 of this title.

§ 1232. Reclamation fee

(a) Payment; rate

All operators of coal mining operations subject to the provisions of this chapter shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 2 per centum of the value of the coal at the mine, or 10 cents per ton, whichever is less.

(b) Due date

Such fee shall be paid no later than thirty days after the end of each calendar quarter beginning with the first calendar quarter occurring after August 3, 1977, and ending fifteen years after August 3, 1977, unless extended by an Act of Congress.

(c) Submission of statement

Together with such reclamation fee, all operators of coal mine operations shall submit a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal, the accuracy of which shall be sworn to by the operator and notarized.

(d) Penalty

Any person, corporate officer, agent or director, on behalf of a coal mine operator, who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(e) Civil action to recover fee

Any portion of the reclamation fee not properly or promptly paid pursuant to this section shall be recoverable, with statutory interest, from coal mine operators, in any court of competent jurisdiction in any action at law to compel payment of debts.

(f) Cooperation from other agencies

All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section.

(g) Allocation of funds

(1) The geographic allocation of expenditures from the fund shall reflect both the area from which the revenue was derived as well as the national program needs for the funds.

(2) Fifty per centum of the funds collected annually in any State or Indian reservation shall be allocated to that State or Indian reservation by the Secretary pursuant to any approved abandoned mine reclamation program to accomplish the purposes of this subchapter. Where the Governor of a State or the head of a governing body of a tribe certifies that (i) ob-

jectives of the fund set forth in sections 1233 and 1239 of this title have been achieved, (ii) there is a need for construction of specific public facilities in communities impacted by coal development, (iii) impact funds which may be available under provisions of the Federal Mineral Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], or the Act of October 20, 1976, Public Law 94-565 (90 Stat. 2662) [31 U.S.C. 1601 et seq.], are inadequate for such construction, and (iv) the Secretary concurs in such certification, then the Secretary may continue to allocate all or part of the 50 per centum share to that State or tribe for such construction: *Provided, however,* That if funds under this subparagraph (2) have not been expended within three years after their allocation, they shall be available for expenditure in any eligible area as determined by the Secretary.

(3) The balance of funds collected on an annual basis may be expended in any State at the discretion of the Secretary in order to meet the purposes of this subchapter. Such funds may be expended directly by the Secretary or by making additional grants to approved State reclamation programs pursuant to section 1235 of this title when the Secretary finds that such programs are the best means of accomplishing the specific reclamation projects. The Secretary shall consult and coordinate with the respective States those projects funded directly or in conjunction with other Federal agencies.

(Pub. L. 95-87, title IV, § 402, Aug. 3, 1977, 91 Stat. 457.)

REFERENCES IN TEXT

The Federal Mineral Leasing Act of 1920, as amended, referred to in subsec. (g)(2), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

The Act of October 20, 1976, Public Law 94-565 (90 Stat. 2662), referred to in subsec. (g)(2), is classified generally to chapter 28 (§ 1601 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1231, 1235, 1239 of this title.

§ 1233. Objectives of fund

Expenditure of moneys from the fund on lands and water eligible pursuant to section 1234 of this title for the purposes of this subchapter shall reflect the following priorities in the order stated:

(1) the protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(2) the protection of public health, safety, and general welfare from adverse effects of coal mining practices;

(3) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.[1]

(4) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;

(5) the protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices;

(6) the development of publicly owned land adversely affected by coal mining practices including land acquired as provided in this subchapter for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

(Pub. L. 95-87, title IV, § 403, Aug. 3, 1977, 91 Stat. 458.)

SECTION REFERRED TO IN OTHER SECTIONS

This secton is referred to in section 1232 of this title.

§ 1234. Eligible lands and water

Lands and water eligible for reclamation or drainage abatement expenditures under this subchapter are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws.

(Pub. L. 95-87, title IV, § 404, Aug. 3, 1977, 91 Stat. 459.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1233, 1235, 1239 of this title.

§ 1235. State reclamation program

(a) Promulgation of regulations

Not later than the end of the one hundred and eighty-day period immediately following August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering implementation of an abandoned mine reclamation program incorporating the provisions of this subchapter and establishing procedures and requirements for perparation,[2] submission, and approval of State programs consisting of the plan and annual submissions of projects.

(b) Submission of State Reclamation Plan and annual projects

Each State having within its borders coal mined lands eligible for reclamation under this subchapter, may submit to the Secretary a State Reclamation Plan and annual projects to carry out the purposes of this subchapter.

(c) Restriction

The Secretary shall not approve, fund, or continue to fund a State abandoned mine recla-

[1] So in original. Probably should be a semicolon.

[2] So in original. Probably should read "preparation".

mation program unless that State has an approved State regulatory program pursuant to section 1253 of this title.

(d) Approval of State program; withdrawal

If the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of this subchapter, sections 1232 and 1240 of this title excepted, the Secretary shall approve such State program and shall grant to the State exclusive responsibility and authority to implement the provisions of the approved program: *Provided*, That the Secretary shall withdraw such approval and authorization if he determines upon the basis of information provided under this section that the State program is not in compliance with the procedures, guidelines, and requirements established under subsection (a) of this section.

(e) Contents of State Reclamation Plan

Each State Reclamation Plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of this subchapter.

(f) Annual application for support; contents

On an annual basis, each State having an approved State Reclamation Plan may submit to the Secretary an application for the support of the State program and implementation of specific reclamation projects. Such annual requests shall include such information as may be requested by the Secretary including:

(1) a general description of each proposed project;

(2) a priority evaluation of each proposed project;

(3) a statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;

(4) an estimate of the cost for each proposed project;

(5) in the case of proposed research and demonstration projects, a description of the specific techniques to be evaluated or objective to be attained;

(6) an identification of lands or interest therein to be acquired and the estimated cost; and

(7) in each year after the first in which a plan is filed under this subchapter, an inventory of each project funded under the previous year's grant: which inventory shall include details of financial expenditures on such project together with a brief description of each such project, including project locations, landowner's name, acreage, type of reclamation performed.

(g) Costs

The costs for each proposed project under this section shall include: actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, and other necessary administrative expenses.

(h) Grant of funds

Upon approved[1] of State Reclamation Plan by the Secretary and of the surface mine regulatory program pursuant to section 1253 of this title, the Secretary shall grant, on an annual basis, funds to be expended in such State pursuant to section 1232(g) of this title and which are necessary to implement the State reclamation program as approved by the Secretary.

(i) Program monitorship

The Secretary, through his designated agents, will monitor the progress and quality of the program. The States shall not be required at the start of any project to submit complete copies of plans and specifications.

(j) Annual report to Secretary

The Secretary shall require annual and other reports as may be necessary to be submitted by each State administering the approved State reclamation program with funds provided under this subchapter. Such reports shall include that information which the Secretary deems necessary to fulfill his responsibilities under this subchapter.

(k) Eligible lands of Indian tribes

Indian tribes having within their jurisdiction eligible lands pursuant to section 1234 of this title or from which coal is produced, shall be considered as a "State" for the purposes of this subchapter.

(Pub. L. 95-87, title IV, § 405, Aug. 3, 1977, 91 Stat. 459.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1232 of this title.

§ 1236. Reclamation of rural lands

(a) Agreements with landowners for conservation treatment

In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements of not more than ten years with landowners including owners of water rights)[2], residents, and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, and agricul-

[1] So in original. Probably should read "approval".

[2] So in original. There is no opening parenthesis.

tural productivity of such lands. Such agreements shall be made by the Secretary with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

(b) Conservation and development plans

The landowner, including the owner of water rights, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, including owner of water rights, resident, or tenant to be needed on the lands for which the plan was prepared. In those instances where it is determined that the water rights or water supply of a tenant, landowner, including owner of water rights, resident, or tenant have been adversely affected by a surface or underground coal mine operation which has removed or disturbed a stratum so as to significantly affect the hydrologic balance, such plan may include proposed measures to enhance water quality or quantity by means of joint action with other affected landowners, including owner of water rights, residents, or tenants in consultation with appropriate State and Federal agencies.

(c) Agreement to effect plan

Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) Financial and other assistance; determination by Secretary

In return for such agreement by the landowner, including owner of water rights, resident, or tenant, the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant, in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate in the public interest for carrying out the land use and conservation treatment set forth in the agreement. Grants made under this section, depending on the income-producing potential of the land after reclaiming, shall provide up to 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than one hundred and twenty acres of land occupied by such owner, including water rights owners, resident, or tenant, or on not more than one hundred and twenty acres of land which has been purchased jointly by such landowners, including water rights owners, residents, or tenants, under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement; except the Secretary may reduce the matching cost share where he determines that (1) the main benefits to be derived from the project are related to improving offsite water quality, offsite esthetic values, or other offsite benefits, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program: *Provided, however,* That the Secretary of Agriculture may allow for land use and conservation treatment on such lands occupied by any such owner in excess of such one hundred and twenty acre limitation up to three hundred and twenty acres, but in such event the amount of the grant to such landowner to carry out such reclamation on such lands shall be reduced proportionately.

(e) Termination of agreements

The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

(f) Preservation and surrender of history and allotments

Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereinunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) Rules and regulations

The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) Utilization of Soil Conservation Service

In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service.

(i) Availability of funds

Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 1231 of this title.

(Pub. L. 95-87, title IV, § 406, Aug. 3, 1977, 91 Stat. 460.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1231 of this title.

§ 1237. Acquisition and reclamation of land adversely affected by past coal mining practices

(a) Findings of fact; notice; right of entry

If the Secretary or the State pursuant to an approved State program, makes a finding of fact that—

(1) land or water resources have been adversely affected by past coal mining practices; and

(2) the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or readily available; or

(4) the owners will not give permission for the United States, the States, political subdivisions, their agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

Then, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality in which the land lies, the Secretary, his agents, employees, or contractors, or the State pursuant to an approved State program, shall have the right to enter upon the property adversely affected by past coal mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor of trespass thereon. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: *Provided, however,* That this provision is not intended to create new rights of action or eliminate existing immunities.

(b) Studies or exploratory work

The Secretary, his agents, employees, or contractors or the State pursuant to an approved State program, shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor trespass thereon.

(c) Requirements for acquisition of affected land

The Secretary or the State pursuant to an approved State program, may acquire any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the Secretary determines that acquisition of such land is necessary to successful reclamation and that—

(1) the acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open space benefits; and

(2) permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or

(3) acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this subchapter or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

(d) Title to affected land; value

Title to all lands acquired pursuant to this section shall be in the name of the United States or, if acquired by a State pursuant to an approved program, title shall be in the name of the State. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(e) State participation; grants

States are encouraged as part of their approved State programs, to reclaim abandoned and unreclaimed mined lands within their boundaries and, if necessary, to acquire or to transfer such lands to the Secretary or the appropriate State regulatory authority under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this subchapter but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this subchapter, such State shall have a preference right to purchase such lands after reclamation at fair market value less the State portion of the original acquisition price. Notwithstanding the provisions of paragraph (1), of this subsection[1], reclaimed land may be sold to the State or local government in which it is located at a price less than fair market value, which in no case shall be less than the cost to the United States of the purchase and reclamation of the land, as negotiated by the Secretary, to be used for a valid public purpose. If any land sold to a State or local government under this paragraph is not used for a valid public purpose as specified by the Secretary in the terms of the sales agreement then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(f) Rules and regulations

The Secretary, in formulating regulations for making grants to the States to acquire land pursuant to this section, shall specify that acquired land meet the criteria provided for in

[1] So in original. Probably refers to paragraph (1) of subsection (c) of this section.

subsections (c) and (d) of this section. The Secretary may provide by regulation that money derived from the lease, rental, or user charges of such acquired land and facilities thereon will be deposited in the fund.

(g) Public sale; notice and hearing

(1) Where land acquired pursuant to this section is deemed to be suitable for industrial, commercial, residential, or recreational development, the Secretary may sell or authorize the States to sell such land by public sale under a system of competitive bidding, at not less than fair market value and under such other regulations promulgated to insure that such lands are put to proper use consistent with local and State land use plans, if any, as determined by the Secretary.

(2) The Secretary or the State pursuant to an approved State program, when requested after appropriate public notice shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired pursuant to this section are located. The hearings shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of [1] disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(h) Construction or rehabilitation of housing for disabled, displaced, or dislocated persons; grants

In addition to the authority to acquire land under subsection (d) of this section the Secretary is authorized to use money in the fund to acquire land by purchase, donation, or condemnation, and to reclaim and transfer acquired land to any State or to a political subdivision thereof, or to any person, firm, association, or corporation, if he determines that such is an integral and necessary element of an economically feasible plan for the project to construct or rehabilitate housing for persons disabled as the result of employment in the mines or work incidental thereto, persons displaced by acquisition of land pursuant to this section, or persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency as provided in section 1240 of this title or persons dislocated as the result of natural disasters or catastrophic failures from any cause. Such activities shall be accomplished under such terms and conditions as the Secretary shall require, which may include transfers of land with or without monetary consideration: *Provided,* That to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such persons, firm, association, or corporation. No part of the funds provided under this subchapter may be used to pay the actual construction costs of housing. The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

(Pub. L. 95-87, title IV, § 407, Aug. 3, 1977, 91 Stat. 462.)

[1] So in original. Probably should be "or".

§ 1238. Liens

(a) Filing of statement and appraisal

Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the Secretary or the State, pursuant to an approved State program, shall itemize the moneys so expended and may file a statement thereof in the office of the county in which the land lies which has the responsibility under local law for the recording of judgments against land, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended shall result in a significant increase in property value. Such statement shall constitute a lien upon the said land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this subsection, who owned the surface prior to May 2, 1977, and who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.

(b) Petition

The landowner may proceed as provided by local law to petition within sixty days of the filing of the lien, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement herein provided. Any party aggrieved by the decision may appeal as provided by local law.

(c) Recordation

The lien provided in this section shall be entered in the county office in which the land lies and which has responsibility under local law for the recording of judgments against land. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land.

(Pub. L. 95-87, title IV, § 408, Aug. 3, 1977, 91 Stat. 465.)

§ 1239. Filling voids and sealing tunnels

(a) Congressional declaration of hazardous conditions

The Congress declares that voids, and open and abandoned tunnels, shafts, and entryways resulting from any previous mining operation, constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operation may degrade the environment. The Secretary, at the request of the Governor of any State, or the chairman of any tribe, is authorized to fill such voids, seal such abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or surface mines which the Secretary determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment. State regulatory authorities are authorized to carry out such work pursuant to an approved abandoned mine reclamation program.

(b) Limitation on funds

Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be allocated to the respective States or Indian reservations under the provisions of section 1232(g) of this title.

(c) Expenditures in States or Indian reservation

The Secretary may make expenditures and carry out the purposes of this section without regard to provisions of section 1234 of this title in such States or Indian reservations where requests are made by the Governor or tribal chairman and only after all reclamation with respect to abandoned coal lands or coal development impacts have been met, except for those reclamation projects relating to the protection of the public health or safety.

(d) Disposal of mine wastes

In those instances where mine waste piles are being reworked for conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

(e) Land acquisition

The Secretary may acquire by purchase, donation, easement, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

(Pub. L. 95-87, title IV, § 409, Aug. 3, 1977, 91 Stat. 465.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1231, 1232 of this title.

§ 1240. Emergency powers

(a) The Secretary is authorized to expend moneys from the fund for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices, on eligible lands, if the Secretary makes a finding of fact that—

(1) an emergency exists constituting a danger to the public health, safety, or general welfare; and

(2) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

(b) The Secretary, his agents, employees, and contractors shall have the right to enter upon any land where the emergency exists and any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare. Such entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property nor of trespass thereof. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: *Provided, however,* That this provision is not intended to create new rights of action or eliminate existing immunities.

(Pub. L. 95-87, title IV, § 410, Aug. 3, 1977, 91 Stat. 466.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235, 1237 of this title.

§ 1241. Annual report to Congress

Not later than January 1, 1978, and annually thereafter, the Secretary or the State pursuant to an approved State program, shall report to the Congress on operations under the fund together with his recommendations as to future uses of the fund.

(Pub. L. 95-87, title IV, § 411, Aug. 3, 1977, 91 Stat. 466.)

§ 1242. Powers of Secretary or State

(a) Engage in work, promulgate rules and regulations, etc., to implement and administer this subchapter

The Secretary or the State pursuant to an approved State program, shall have the power and authority, if not granted it otherwise, to engage in any work and to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of this subchapter.

(b) Engage in cooperative projects

The Secretary or the State pursuant to an approved State program, shall have the power and authority to engage in cooperative projects under this subchapter with any other agency of the United States of America, any State and their governmental agencies.

(c) Request for action to restrain interference with regard to this subchapter

The Secretary or the State pursuant to an approved State program, may request the Attorney General, who is hereby authorized to initiate, in addition to any other remedies provided for in this subchapter, in any court of competent jurisdiction, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work provided in this subchapter.

(d) Construct and operate plants for control and treatment of water pollution resulting from mine drainage

The Secretary or the State pursuant to an approved State program, shall have the power and authority to construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water: *Provided*, That the above provisions of this paragraph shall not be deemed in any way to repeal or supersede any portion of the Federal Water Pollution Control Act (33 U.S.C.A. 1151, et seq. as amended) [33 U.S.C. 1251 et seq.] and no control or treatment under this subsection shall in any way be less than that required under the Federal Water Pollution Control Act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

(e) Transfer funds

The Secretary may transfer funds to other appropriate Federal agencies, in order to carry out the reclamation activities authorized by this subchapter.

(Pub. L. 95-87, title IV, § 412, Aug. 3, 1977, 91 Stat. 466.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, (33 U.S.C.A. 1151, et seq. as amended), referred to in subsec. (d), is act June 30, 1948, ch. 758, 62 Stat. 1155, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, and is now classified generally to chapter 26 (§ 1251 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

§ 1243. Interagency cooperation

All departments, boards, commissioners, and agencies of the United States of America shall cooperate with the Secretary by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of this subchapter.

(Pub. L. 95-87, title IV, § 413, Aug. 3, 1977, 91 Stat. 467.)

SUBCHAPTER V—CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1211 of this title.

§ 1251. Environmental protection standards

(a) Not later than the end of the ninety-day period immediately following August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering an interim regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions set out in section 1252(c) of this title. The issuance of the interim regulations shall be deemed not to be a major Federal action within the meaning of section 4332(2)(c) of title 42. Such regulations, which shall be concise and written in plain, understandable language shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than thirty days after such publication to submit written comments thereon;

(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175) [33 U.S.C. 1251 et seq.]; and the Clean Air Act, as amended (42 U.S.C. 1857 et seq.) [42 U.S.C. 7401 et seq.]; and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

(b) Not later than one year after August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations performance standards based on and conforming to the provisions of this subchapter and establishing procedures and requirements for preparation, submission, and approval of State programs; and development and implementation of Federal programs under the subchapter. The Secretary shall promulgate these regulations, which shall be concise and written in plain, understandable language in accordance with the procedures in subsection (a) of this section.

(Pub. L. 95-87, title V, § 501, Aug. 3, 1977, 91 Stat. 467.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175), referred to in subsec. (a), is act June 30, 1948, ch. 758, 62 Stat. 1155, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, and is now classified generally to chapter 26 (§ 1251 et

seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, as amended (42 U.S.C. 1857 et seq.), referred to in subsec. (a), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1211, 1254, 1265, 1266, 1276, 1292, 1298 of this title.

§ 1252. Initial regulatory procedures

(a) State regulation

No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State unless such person has obtained a permit from the State's regulatory authority.

(b) Interim standards

All surface coal mining operations on lands on which such operations are regulated by a State which commence operations pursuant to a permit issued on or after six months from August 3, 1977, shall comply, and such permits shall contain terms requiring compliance with, the provisions set out in subsection (c) of this section. Prior to final disapproval of a State program or prior to promulgation of a Federal program or a Federal lands program pursuant to this chapter, a State may issue such permits.

(c) Full compliance with environmental protection performance standards

On and after nine months from August 3, 1977, all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the provisions of subsections (b)(2), (b)(3), (b)(5), (b)(10), (b)(13), (b)(15), (b)(19), and (d) of section 1265 of this title or, where a surface coal mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, such operation shall comply with the requirements of section 1265(c)(4) and (5) of this title without regard to the requirements of section 1265(b)(3) or (d)(2) and (3) of this title, with respect to lands from which overburden and the coal seam being mined have not been removed: *Provided, however,* That surface coal mining operations in operation pursuant to a permit issued by a State before August 3, 1977, issued to a person as defined in section 1291(19) of this title in existence prior to May 2, 1977 and operated by a person whose total annual production of coal from surface and underground coal mining operations does not exceed one hundred thousand tons shall not be subject to the provisions of this subsection except with reference to the provision of section 1265(d)(1) of this title until January 1, 1979.

(d) Permit application

Not later than two months following the approval of a State program pursuant to section 1253 of this title or the implementation of a Federal program pursuant to section 1254 of this title, regardless of litigation contesting that approval or implementation, all operators of surface coal mines in expectation of operating such mines after the expiration of eight months from the approval of a State program or the implementation of a Federal program, shall file an application for a permit with the regulatory authority. Such application shall cover those lands to be mined after the expiration of eight months from the approval of a State program or the implementation of a Federal program. The regulatory authority shall process such applications and grant or deny a permit within eight months after the date of approval of the State program or the implementation of the Federal program, unless specially enjoined by a court of competent jurisdiction, but in no case later than forty-two months from August 3, 1977.

(e) Federal enforcement program

Within six months after August 3, 1977, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State as surface coal mining operations are required to comply with the provisions of this chapter, until the State program has been approved pursuant to this chapter or until a Federal program has been implemented pursuant to this chapter. The enforcement program shall—

(1) include inspections of surface coal mine sites which may be made (but at least one inspection for every site every six months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsections (b) and (c) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provision of this subchapter to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of subsections (b) and (c) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this subchapter. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made;

(4) provide that moneys authorized by section 1302 of this title shall be available to the Secretary prior to the approval of a State program pursuant to this chapter to reimburse the State for conducting those inspections in which the standards of this chapter are enforced and for the administration of this section.[1]

(5) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;[2]

(f) Interim period

Following the final disapproval of a State program, and prior to promulgation of a Federal program or a Federal lands program pursuant to this chapter, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of this section. During such period no new permits shall be issued by the State whose program has been disapproved. Permits which lapse during such period may continue in full force and effect until promulgation of a Federal program or a Federal lands program.

(Pub. L. 95-87, title V, § 502, Aug. 3, 1977, 91 Stat. 468.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1251, 1253, 1256, 1268, 1271, 1273, 1302 of this title.

§ 1253. State programs

(a) Regulation of surface coal mining and reclamation operations; submittal to Secretary; time limit; demonstration of effectiveness

Each State in which there are or may be conducted surface coal mining operations on non-Federal lands, and which wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations, except as provided in sections 1271 and 1273 of this title and subchapter IV of this chapter, shall submit to the Secretary, by the end of the eighteenth-month period beginning on August 3, 1977, a State program which demonstrates that such State has the capability of carrying out the provisions of this chapter and meeting its purposes through—

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this chapter;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this chapter, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this chapter;

(4) a State law which provides for the effective implementations, maintenance, and enforcement of a permit system, meeting the requirements of this subchapter for the regulations of surface coal mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of areas as unsuitable for surface coal mining in accordance with section 1272 of this title provided that the designation of Federal lands unsuitable for mining shall be performed exclusively by the Secretary after consultation with the State; and

(6) establishment for the purposes of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations; and

(7) rules and regulations consistent with regulations issued by the Secretary pursuant to this chapter.

(b) Approval of program

The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175) [33 U.S.C. 1251 et seq.], and the Clean Air Act, as amended (42 U.S.C. 1857 et seq.) [42 U.S.C. 7401 et seq.];

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

The Secretary shall approve or disapprove a State program, in whole or in part, within six

[1] So in original. Period probably should be a semi-colon.

[2] So in original. Semi-colon probably should be a period.

full calendar months after the date such State program was submitted to him.

(c) Notice of disapproval

If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program or portion thereof. The Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

(d) Inability of State to take action

For the purposes of this section and section 1254 of this title, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under subchapters IV and VII of this chapter or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 1252 of this title, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of this section and section 1254 of this title shall again be fully applicable.

(Pub. L. 95-87, title V, § 503, Aug. 3, 1977, 91 Stat. 470.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175), referred to in subsec. (b)(2), is act June 30, 1948, ch. 758, 62 Stat. 1155, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, and is now classified generally to chapter 26 (§ 1251 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (b)(2), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235, 1252, 1254, 1256, 1268, 1271, 1272, 1291, 1292, 1309 of this title.

§ 1254. Federal programs

(a) Promulgation and implementation by Secretary for State

The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement a Federal program for a State no later than thirty-four months after August 3, 1977, if such State—

(1) fails to submit a State program covering surface coal mining and reclamation operations by the end of the eighteen-month period beginning on August 3, 1977;

(2) fails to resubmit an acceptable State program within sixty days of disapproval of a proposed State program: *Provided*, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided for in clause (1) of this subsection; or

(3) fails to implement, enforce, or maintain its approved State program as provided for in this chapter.

If State compliance with clause (1) of this subsection requires an act of the State legislature, the Secretary may extend the period of submission of a State program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface coal mining and reclamation operations taking place on lands within any State not in compliance with this chapter. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. If a Federal program is implemented for a State, section 1272(a), (c), and (d) of this title shall not apply for a period of one year following the date of such implementation. In promulgating and implementing a Federal program for a particular State the Secretary shall take into consideration the nature of that State's terrain, climate, biological, chemical, and other relevant physical conditions.

(b) Federal enforcement of State program

In the event that a State has a State program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 1271 of this title, of that part of the State program not being enforced by such State.

(c) Notice and hearing

Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing in the affected State.

(d) Review of permits

Permits issued pursuant to a previously approved State program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this chapter are not violated. If the Secretary determines any permit to have been granted contrary to the requirements of this chapter, he shall so advise the permittee and provide him an opportunity for hearing and a reasonable opportunity for submission of a new application and reasonable time, within a time limit prescribed in regulations promulgated pursuant to section 1251(b) of this title, to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

(e) Submission of State program after implementation of Federal program

A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 1253(b) of this title and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this chapter and meeting its purposes through the criteria set forth in section 1253(a)(1) through (6) of this title. Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder shall remain in effect.

(f) Validity of Federal program permits under superseding State program

Permits issued pursuant to the Federal program shall be valid under any superseding State program: *Provided,* That the Federal permittee shall have the right to apply for a State permit to supersede his Federal permit. The State regulatory authority may review such permits to determine that the requirements of this chapter and the approved State program are not violated. Should the State program contain additional requirements not contained in the Federal program, the permittee will be provided opportunity for hearing and a reasonable time, within a time limit prescribed in regulations promulgated pursuant to section 1251 of this title, to conform ongoing surface mining and reclamation operations to the additional State requirements.

(g) Preemption of State statutes or regulations

Whenever a Federal program is promulgated for a State pursuant to this chapter, any statutes or regulations of such State which are in effect to regulate surface mining and reclamation operations subject to this chapter shall, insofar as they interfere with the achievement of the purposes and the requirements of this chapter and the Federal program, be preempted and superseded by the Federal program. The Secretary shall set forth any State law or regulation which is preempted and superseded by the Federal program.

(h) Coordination of issuance and review of Federal program permits with any other Federal or State permit process

Any Federal program shall include a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation.

(Pub. L. 95-87, title V, § 504, Aug. 3, 1977, 91 Stat. 471.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1253, 1256, 1271, 1272, 1291, 1292 of this title.

§ 1255. State laws

(a) No State law or regulation in effect on August 3, 1977, or which may become effective thereafter, shall be superseded by any provision of this chapter or any regulation issued pursuant thereto, except insofar as such State law or regulation is inconsistent with the provisions of this chapter.

(b) Any provision of any State law or regulation in effect upon August 3, 1977, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operation than do the provisions of this chapter or any regulation issued pursuant thereto shall not be construed to be inconsistent with this chapter. The Secretary shall set forth any State law or regulation which is construed to be inconsistent with this chapter. Any provision of any State law or regulation in effect on August 3, 1977, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this chapter shall not be construed to be inconsistent with this chapter.

(Pub. L. 95-87, title V, § 505, Aug. 3, 1977, 91 Stat. 473.)

§ 1256. Permits

(a) Persons engaged in surface coal mining within State; time limit; exception

No later than eight months from the date on which a State program is approved by the Secretary, pursuant to section 1253 of this title, or no later than eight months from the date on which the Secretary has promulgated a Federal program for a State not having a State program pursuant to section 1254 of this title, no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program or by the Secretary pursuant to a Federal program; except a person conducting surface coal mining operations under a permit from the State regulatory authority, issued in accordance with the provisions of section 1252 of this title, may conduct such operations beyond such period if an application for a permit has been filed in accordance with the provisions of this chapter, but the initial administrative decision has not been rendered.

(b) Term

All permits issued pursuant to the requirements of this chapter shall be issued for a term not to exceed five years: *Provided,* That if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the regulatory authority

may grant a permit for such longer term. A successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

(c) Termination

A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three years of the issuance of the permit: *Provided,* That the regulatory authority may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding such commencement or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee: *Provided further,* That in the case of a coal lease issued under the Federal Mineral Leasing Act, as amended [30 U.S.C. 181 et seq.], extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that Act [30 U.S.C. 207]: *Provided further,* That with respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(d) Renewal

(1) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to fulfillment of the public notice requirements of sections 1263 and 1264 of this title unless it is established that and written findings by the regulatory authority are made that—

(A) the terms and conditions of the existing permit are not being satisfactorily met;

(B) the present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter and the approved State plan or Federal program pursuant to this chapter; or

(C) the renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(D) the operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 1259 of this title; or

(E) any additional revised or updated information required by the regulatory authority has not been provided. Prior to the approval of any renewal of permit the regulatory authority shall provide notice to the appropriate public authorities.

(2) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter: *Provided, however,* That if the surface coal mining operations authorized by a permit issued pursuant to this chapter were not subject to the standards contained in section 1260(b)(5)(A) and (B) of this title by reason of complying with the proviso of section 1260(b)(5) of this title, then the portion of the application for renewal of the permit which addresses any new land areas previously identified in the reclamation plan submitted pursuant to section 1258 of this title shall not be subject to the standards contained in section 1260(b)(5)(A) and (B) of this title.

(3) Any permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit.

(Pub. L. 95-87, title V, § 506, Aug. 3, 1977, 91 Stat. 473.)

REFERENCES IN TEXT

The Federal Mineral Leasing Act, as amended, referred to in subsec. (c), probably means act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

§ 1257. Application requirements

(a) Fee

Each application for a surface coal mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this chapter shall be accompanied by a fee as determined by the regulatory authority. Such fee may be less than but shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program. The regulatory authority may develop procedures so as to enable the cost of the fee to be paid over the term of the permit.

(b) Submittal; contents

The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and addresses of (A) the permit applicant; (B) every legal owner of record of the property (surface and mineral), to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; and (E) the operator if he is a person different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and

addresses of the principals, officers, and resident agent;

(2) the names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

(3) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification and each pending application;

(4) if the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record 10 per centum or more of any class of voting stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States within the five-year period preceding the date of submission of the application;

(5) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a mining bond or similar security deposited in lieu or bond forefeited and, if so, a brief explanation of the facts involved;

(6) a copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, and which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(7) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(8) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(9) the applicant shall file with the regulatory authority on an accurate map or plan, to an appropriate scale, clearly showing the land to be affected as of the date of the application, the area of land within the permit area upon which the applicant has the legal right to enter and commence surface mining operations and shall provide to the regulatory authority a statement of those documents upon which the applicant bases his legal right to enter and commence surface mining operations on the area affected, and whether that right is the subject of pending court litigation: *Provided,* That nothing in this chapter shall be construed as vesting in the regulatory authority the jurisdiction to adjudicate property title disputes.[1]

(10) the name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the regulatory authority of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability: *Provided, however,* That this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate Federal or State agency: *Provided further,* That the permit shall not be approved until such information is available and is incorporated into the application;

(12) when requested by the regulatory authority, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(13) accurate maps to an appropriate scale clearly showing (A) the land to be affected as of the date of application and (B) all types of information set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or 1:25,000 or larger, including all manmade features and significant known archeological sites existing on the date of application. Such a map or plan shall among other things specified by the regulatory authority show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area;

(14) cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture, showing pertinent elevation and location of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; existing or previous surface mining limits; the location and extent of known workings of any underground mines,

[1] So in original. Probably should be a semicolon.

including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and top-soil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(15) a statement of the result of test borings or core samplings from the permit area, including logs of the drill holes; the thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined except that the provisions of this paragraph (15) may be waived by the regulatory authority with respect to the specific application by a written determination that such requirements are unnecessary;

(16) for those lands in the permit application which a reconnaissance inspection suggests may be prime farm lands, a soil survey shall be made or obtained according to standards established by the Secretary of Agriculture in order to confirm the exact location of such prime farm lands, if any; and

(17) information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest which is or may be adversely affected: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record.

(c) Determination of probable hydrologic consequences and statement of results of test borings and core samplings

If the regulatory authority finds that the probable total annual production at all locations of any coal surface mining operator will not exceed 100,000 tons, the determination of probable hydrologic consequences required by subsection (b)(11) of this section and the statement of the result of test borings or core samplings required by subsection (b)(15) of this section shall, upon the written request of the operator be performed by a qualified public or private laboratory designated by the regulatory authority and the cost of the preparation of such determination and statement shall be assumed by the regulatory authority.

(d) Reclamation plan

Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a reclamation plan which shall meet the requirements of this chapter.

(e) Public inspection

Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with the recorder at the courthouse of the county or an appropriate public office approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(f) Insurance certificate

Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of State law. Such policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

(g) Blasting plan

Each applicant for a surface coal mining and reclamation permit shall submit to the regulatory authority as part of the permit application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of section 1265(b)(15) of this title.

(Pub. L. 95-87, title V, § 507, Aug. 3, 1977, 91 Stat. 474.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1231, 1258, 1260, 1265, 1269, 1300, 1302 of this title.

§ 1258. Reclamation plan requirements

(a) Each reclamation plan submitted as part of a permit application pursuant to any approved State program or a Federal program under the provisions of this chapter shall include, in the degree of detail necessary to demonstrate that reclamation required by the State or Federal program can be accomplished, a statement of:

(1) the identification of the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) the condition of the land to be covered by the permit prior to any mining including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover, and, if applicable, a soil survey prepared pursuant to section 1257(b)(16) of this title; and

(C) the productivity of the land prior to mining, including appropriate classification as prime farm lands, as well as the average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management;

(3) the use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any owner of the surface, State and local governments or agencies thereof which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation;

(4) a detailed description of how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(5) the engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 1265(b)(7)(A), (B), (C), and (D) of this title, for those food, forage, and forest lands identified in section 1265(b)(7) of this title; an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in section 1265 of this title;

(6) the consideration which has been given to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future can be minimized;

(7) a detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(8) the consideration which has been given to making the surface mining and reclamation operations consistent with surface owner plans, and applicable State and local land use plans and programs;

(9) the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(10) the consideration which has been given to developing the reclamation plan in a manner consistent with local physical environmental, and climatological conditions;

(11) all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) the results of test boring which the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the regulatory authority, including the location of subsurface water, and an analysis of the chemical properties including acid forming properties of the mineral and overburden: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record;

(13) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of:

(A) the quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process;

(B) the rights of present users to such water; and

(C) the quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process or to provide alternative sources of water where such protection of quantity cannot be assured;

(14) such other requirements as the regulatory authority shall prescribe by regulations.

(b) Any information required by this section which is not on public file pursuant to State law shall be held in confidence by the regulatory authority.

(Pub. L. 95-87, title V, § 508, Aug. 3, 1977, 91 Stat. 478.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1291, 1300 of this title.

§ 1259. Performance bonds

(a) Filing with regulatory authority; scope; number and amount

After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, and conditional upon faithful performance of all the requirements of this chapter and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the

bond required for each bonded area shall depend upon the reclamation requirements of the approved permit; shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential, and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture and in no case shall the bond for the entire area under one permit be less than $10,000.

(b) Liability period; execution

Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements in section 1265 of this title. The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) Bond of applicant without separate surety; alternate system

The regulatory authority may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount or in lieu of the establishment of a bonding program, as set forth in this section, the Secretary may approve as part of a State or Federal program an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.

(d) Deposit of cash or securities

Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(e) Adjustments

The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

(Pub. L. 95-87 title V, § 509, Aug. 3, 1977, 91 Stat. 479.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1265, 1279, 1291, 1300 of this title.

§ 1260. Permit approval or denial

(a) Basis for decision; notification of applicant and local government officials; burden of proof

Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this chapter and pursuant to an approved State program or Federal program under the provisions of this chapter, including public notification and an opportunity for a public hearing as required by section 1263 of this title, the regulatory authority shall grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority and notify the applicant in writing. The applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of the applicable State or Federal program. Within ten days after the granting of a permit, the regulatory authority shall notify the local governmental officials in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(b) Requirements for approval

No permit or revision application shall be approved unless the application affirmatively demonstrates and the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant, that—

(1) the permit application is accurate and complete and that all the requirements of this chapter and the State or Federal program have been complied with;

(2) the applicant has demonstrated that reclamation as required by this chapter and the State or Federal program can be accomplished under the reclamation plan contained in the permit application;

(3) the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 1257(b) of this title has been made by the regulatory authority and the proposed operation thereof has been designed to prevent material damage to hydrologic balance outside permit area;

(4) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 1272 of this title or is not within an area under study for such designation in an administrative proceeding commenced pursuant to section 1272(a)(4)(D) or section 1272(c) of this title (unless in such an area as to which an administrative proceeding has commenced pursuant to section 1272(a)(4)(D) of this title, the operator making the permit application demonstrates that, prior to January 1, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

(5) the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude, would—

(A) not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands as to which the regulatory authority finds that if the farming that will be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production, or

(B) not materially damage the quantity or quality of water in surface or underground water systems that supply these valley floors in (A) of subsection (b)(5) of this section:

Provided, That this paragraph (5) shall not affect those surface coal mining operations which in the year preceding August 3, 1977, (I) produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or (II) had obtained specific permit approval by the State regulatory authority to conduct surface coal mining operations within said alluvial valley floors.

With respect to such surface mining operations which would have been within the purview of the foregoing proviso but for the fact that no coal was so produced in commercial quantities and no such specific permit approval was so received, the Secretary, if he determines that substantial financial and legal commitments were made by an operator prior to January 1, 1977, in connection with any such operation, is authorized, in accordance with such regulations as the Secretary may prescribe, to enter into an agreement with that operator pursuant to which the Secretary may, notwithstanding any other provision of law, lease other Federal coal deposits to such operator in exchange for the relinquishment by such operator of his Federal lease covering coal deposits involving such mining operations, or pursuant to section 1716 of title 43, convey to the fee holder of any such coal deposits involving such mining operations the fee title to other available Federal coal deposits in exchange for the fee title to such deposits so involving such mining operations. It is the policy of the Congress that the Secretary shall develop and carry out a coal exchange program to acquire private fee coal precluded from being mined by the restrictions of this paragraph (5) in exchange for Federal coal which is not so precluded. Such exchanges shall be made under section 1716 of title 43;

(6) in cases where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the regulatory authority—

(A) the written consent of the surface owner to the extraction of coal by surface mining methods; or

(B) a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

(C) if the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with State law: *Provided*, That nothing in this chapter shall be construed to authorize the regulatory authority to adjudicate property rights disputes.

(c) Schedule of violations

The applicant shall file with his permit application a schedule listing any and all notices of violations of this chapter and any law, rule, or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of this chapter or such other laws referred to this subsection[1], the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation and no permit shall be issued to an applicant after a finding by the regulatory authority, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter.

(d) Prime farmland mining permit

(1) In addition to finding the application in compliance with subsection (b) of this section, if the area proposed to be mined contains prime farmland pursuant to section 1257(b)(16) of this title, the regulatory authority shall, after consultation with the Secretary of Agriculture, and pursuant to regulations issued hereunder by the Secretary of Interior with the concurrence of the Secretary of Agriculture, grant a permit to mine on prime farmland if the regulatory authority finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 1265(b)(7) of this title. Except for compliance with subsection (b) of this section, the requirements of this paragraph (1) shall apply to all permits issued after August 3, 1977.

(2) Nothing in this subsection shall apply to any permit issued prior to August 3, 1977, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued prior to August 3, 1977.

(Pub. L. 95-87, title V, § 510, Aug. 3, 1977, 91 Stat. 480.)

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[1] So in original. Probably should read "referred to in this subsection".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1263, 1300 of this title.

§ 1261. Revision of permits

(a) Application and revised reclamation plan; requirements; extensions to area covered

(1) During the term of the permit the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the regulatory authority.

(2) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this chapter and the State or Federal program can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided,* That any revisions which propose significant alterations in the reclamation plan shall, at a minimum, be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(b) Transfer, assignment, or sale of rights under permit

No transfer, assignment, or sale of the rights granted under any permit issued pursuant to this chapter shall be made without the written approval of the regulatory authority.

(c) Review of outstanding permits

The regulatory authority shall within a time limit prescribed in regulations promulgated by the regulatory authority, review outstanding permits and may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided,* That such revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by the State or Federal program.

(Pub. L. 95-87, title V, § 511, Aug. 3, 1977, 91 Stat. 483.)

§ 1262. Coal exploration permits

(a) Regulations; contents

Each State or Federal program shall include a requirement that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration regulations issued by the regulatory authority. Such regulations shall include, at a minimum (1) the requirement that prior to conducting any exploration under this section, any person must file with the regulatory authority notice of intention to explore and such notice shall include a description of the exploration area and the period of supposed exploration and (2) provisions for reclamation in accordance with the performance standards in section 1265 of this title of all lands disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment.

(b) Confidential information

Information submitted to the regulatory authority pursuant to this subsection as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person or entity intended to explore the described area shall not be available for public examination.

(c) Penalties

Any person who conducts any coal exploration activities which substantially disturb the natural land surface in violation of this section or regulations issued pursuant thereto shall be subject to the provisions of section 1268 of this title.

(d) Limitation on removal of coal

No operator shall remove more than two hundred and fifty tons of coal pursuant to an exploration permit without the specific written approval of the regulatory authority.

(e) Law governing exploration of Federal lands

Coal exploration on Federal lands shall be governed by section 4 of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1085).

(Pub. L. 95-87, title V, § 512, Aug. 3, 1977, 91 Stat. 483.)

REFERENCES IN TEXT

Section 4 of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1085), referred to in subsec. (e), is Pub. L. 94-377, § 4, Aug. 4, 1976, 90 Stat. 1085, which amended section 201(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1291 of this title.

§ 1263. Public notice and public hearings

(a) Submittal of advertisement to regulatory authority; notification of local governmental bodies

At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this chapter or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed by the applicant in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The regulatory authority shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, of[1] water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies,

[1] So in original. Probably should be "or".

agencies, authorities, or companies may submit written comments within a reasonable period established by the regulatory authority on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall immediately be transmitted to the applicant by the regulatory authority and shall be made available to the public at the same locations as are the mining applications.

(b) Objections to permit applications; informal conference; record

Any person having an interest which is or may be adversely affected or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. Such objections shall immediately be transmitted to the applicant by the regulatory authority and shall be made available to the public. If written objections are filed and an informal conference requested, the regulatory authority shall then hold an informal conference in the locality of the proposed mining, if requested within a reasonable time of the receipt of such objections or request. The date, time and location of such informal conference shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all parties. Such record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, such informal conference need not be held.

(c) Prior Federal coal lease hearing as evidence

Where the lands included in an application for a permit are the subject of a Federal coal lease in connection with which hearings were held and determinations were made under section 201(a)(3)(A), (B) and (C) of this title, such hearings shall be deemed as to the matters covered to satisfy the requirements of this section and section 1264 of this title and such determinations shall be deemed to be a part of the record and conclusive for purposes of sections 1260, 1264 of this title and this section.

(Pub. L. 95-87, title V, § 513, Aug. 3, 1977, 91 Stat. 484.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1260, 1264, 1269 of this title.

§ 1264. Decisions of regulatory authority and appeals

(a) Issuance of findings within 60 days after informal conference

If an informal conference has been held pursuant to section 1263(b) of this title, the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reasons therefor, within the sixty days of said hearings.

(b) Decision without informal conference; notification within a reasonable time

If there has been no informal conference held pursuant to section 1263(b) of this title, the regulatory authority shall notify the applicant for a permit within a reasonable time as determined by the regulatory authority and set forth in regulations, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not written objection to the application has been filed, whether the application has been approved or disapproved in whole or part.

(c) Request for rehearing on reasons for final determination; time; issuance of decision

If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the appicant is notified of the final decision of the regulatory authority on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination. The regulatory authority shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. If the Secretary is the regulatory authority the hearing shall be of record and governed by section 554 of title 5. Where the regulatory authority is the State, such hearing shall be of record, adjudicatory in nature and no person who presided at a conference under section 1263(b) of this title shall either preside at the hearing or participate in this decision thereon or in any administrative appeal therefrom. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(d) Temporary relief

Where a hearing is requested pursuant to subsection (c) of this section, the Secretary, where the Secretary is the regulatory authority, or the State hearing authority may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(e) Power of regulatory authority with respect to rehearing

For the purpose of such hearing, the regulatory authority may administer oaths, subpoena witnesses, or written or printed materials, compel attendance of the witness, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this chapter shall be made, and a transcript made available on the motion of any party or by order of the regulatory authority.

(f) Right to appeal in accordance with section 1276 of this title

Any applicant or any person with an interest which is or may be adversely affected who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within the time limits specified in this chapter shall have the right to appeal in accordance with section 1276 of this title.

(Pub. L. 95-87, title V, § 514, Aug. 3, 1977, 91 Stat. 485.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1263 of this title.

§ 1265. Environmental protection performance standards

(a) Permit requirement

Any permit issued under any approved State or Federal program pursuant to this chapter to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this chapter, and such other requirements as the regulatory authority shall promulgate.

(b) General standards

General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) except a provided in subsection (c) of this section with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions elminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this chapter;

(4) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) restore the topsoil or the best available subsoil which is best able to support vegetation;

(7) for all prime farm lands as identified in section 1257(b)(16) of this title to be mined and reclaimed, specifications for soil removal, storage, replacement, and reconstruction shall be established by the Secretary of Agriculture, and the operator shall, as a minimum, be required to—

(A) segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(B) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(C) replace and regrade the root zone material described in (B) above with proper compaction and uniform depth over the regraded spoil material; and

(D) redistribute and grade in a uniform manner the surface soil horizon described in subparagraph (A);

(8) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable Federal and State law in the receiving stream;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial[1] recreational, or domestic uses;

(9) conducting[2] any augering operation associated with surface mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete; and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the regulatory authority determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety: *Provided*, That the permitting authority may prohibit augering if necessary to maximize the utilization, recoverability or conservation of the solid fuel resources or to protect against adverse water quality impacts;

(10) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells and keep[3] acid or other toxic drainage from entering ground and surface waters;

(B)(i) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall

[1] So in original. Probably should be "industrial,".
[2] So in original. Probably should be "conduct".
[3] So in original. Probably should be "keeping".

contributions be in excess of requirements set by applicable State or Federal law;

(ii) constructing any siltation structures pursuant to subparagraph (B)(i) of this subsection prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;

(C) cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized; and depositing the silt and debris at a site and in a manner approved by the regulatory authority;

(D) restoring recharge capacity of the mined area to approximate premining conditions;

(E) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

(G) such other actions as the regulatory authority may prescribe;

(11) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this chapter;

(12) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That the regulatory authority shall permit an operator to mine near, through or partially through an abandoned underground mine or closer to an active underground mine if (A) the nature, timing, and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are jointly approved by the regulatory authorities concerned with surface mine regulation and the health and safety of underground miners, and (B) such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public;

(13) design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection (f) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;

(14) insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

(15) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

(A) provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed blasting site and by providing daily notice to resident/occupiers in such areas prior to any blasting;

(B) maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(C) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(D) require that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority;

(E) provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half mile of any portion of the permitted area the applicant or permittee shall conduct a pre-blasting survey of such structures and submit the survey to the regulatory authority and a copy to the resident or owner making the request. The area of the survey shall be decided by the regulatory authority and shall include such provisions as the Secretary shall promulgate.

(16) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations: *Provided, however.*[1] That where the applicant proposes to combine surface mining operations with underground mining operations to assure maximum practical recovery of the mineral resources, the regulatory authority may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

[1] So in original. Probably should be a comma.

(A) if the regulatory authority finds in writing that:

(i) the applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(ii) the proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;

(iii) the applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued by the appropriate authority;

(iv) the areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;

(v) no substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this chapter;

(vi) provisions for the off-site storage of spoil will comply with paragraph (22);

(B) if the Secretary has promulgated specific regulations to govern the granting of such variances in accordance with the provisions of this subsection and section 1251 of this title, and has imposed such additional requirements as he deems necessary;

(C) if variances granted under the provisions of this subsection are to be reviewed by the regulatory authority not more than three years from the date of issuance of the permit; and

(D) if liability under the bond filed by the applicant with the regulatory authority pursuant to section 1259(b) of this title shall be for the duration of the underground mining operations and until the requirements of this subsection and section 1269 of this title have been fully complied with.[1]

(17) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property;

(18) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(19) establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(20) assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided*, That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further*, That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exception to the provisions of paragraph (19) above;

(21) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(22) place all excess spoil material resulting from coal surface mining and reclamation activities in such a manner that—

(A) spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way to assure mass stability and to prevent mass movement;

(B) the areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(C) appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(D) the disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(E) if placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the regulatory authority, the spoil could be placed in compliance with all the requirements of this chapter, and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(F) where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient

[1] So in original. Probably should be a semi-colon.

size to prevent mass movement, is constructed;

(G) the final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(H) design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(I) all other provisions of this chapter are met.[1]

(23) meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this chapter, taking into consideration the physical, climatological, and other characteristics of the site; and

(24) to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(25) provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the regulatory authority shall determine shall be retained in place as a barrier to slides and erosion.

(c) Procedures; exception to original contour restoration requirements

(1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit surface mining operations for the purposes set forth in paragraph (3) of this subsection.

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a permit without regard to the requirement to restore to approximate original contour set forth in subsection (b)(3) or (d)(2) and (3) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c)(4)(A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

(3) In cases where an industrial, commercial, agricultural, residential or public facility (including recreational facilities) use is proposed or [2] the postmining use of the affected land, the regulatory authority may grant a permit for a surface mining operation of the nature described in subsection (c)(2) of this section where—

(A) after consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with premining use;

(B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be—

(i) compatible with adjacent land uses;

(ii) obtainable according to data regarding expected need and market;

(iii) assured of investment in necessary public facilities;

(iv) supported by commitments from public agencies where appropriate;

(v) practicable with respect to private financial capability for completion of the proposed use;

(vi) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(vii) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

(C) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

(D) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;

(E) all other requirements of this chapter will be met.

(4) In granting any permit pursuant to this subsection the regulatory authority shall require that—

(A) the toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) the reclaimed area is stable;

(C) the resulting plateau or rolling contour drains inward from the outslopes except at specified points;

(D) no damage will be done to natural watercourses;

(E) spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use: *Provided*, That all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of subsection (b)(22) of this section;

(F) insure stability of the spoil retained on the mountaintop and meet the other requirements of this chapter;

(5) The regulatory authority shall promulgate specific regulations to govern the granting of permits in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

(6) All permits granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

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[1] So in original. Probably should be a semicolon.

[2] So in original. Probably should be "for".

(d) Steep-slope surface coal mining standards

The following performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however,* That the provisions of this subsection (d) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area or where an operator is in compliance with provisions of subsection (c) hereof:

(1) Insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut: *Provided,* That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of subsection (b)(3) or (d)(2) of this section shall be permanently stored pursuant to subsection (b)(22) of this section.

(2) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the appropriate original contour, which material will maintain stability following mining and reclamation.

(3) The operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section: *Provided, however,* That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) For the purposes of this subsection (d), the term "steep slope" is any slope above twenty degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

(e) Variances to original contour restoration requirements

(1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection, provided that the watershed control of the area is improved; and further provided complete backfilling with spoil material shall be required to cover completely the highwall which material will maintain stability following mining and reclamation.

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement to restore to approximate original contour set forth in subsection (d)(2) of this section may be granted for the surface mining of coal where the owner of the surface knowingly requests in writing, as a part of the permit application that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities) in accord with the further provisions of (3) and (4) of this subsection.

(3)(A) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is deemed to constitute an equal or better economic or public use;

(B) is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and

(C) after approval of the appropriate state environmental agencies, the watershed of the affected land is deemed to be improved.

(4) In granting a variance pursuant to this subsection the regulatory authority shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, insure stability of the spoil retained on the bench, meet all other requirements of this chapter, and all spoil placement off the mine bench must comply with subsection (b)(22) of this section.

(5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

(6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(f) Standards and criteria for coal mine waste piles

The Secretary, with the written concurrence of the Chief of Engineers, shall establish within one hundred and thirty-five days from August 3, 1977, standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in subsection (b)(13) of this section and section 1266(b)(5) of this title. Such standards and criteria shall conform to the standards and criteria used by the Chief of Engineers to insure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications the standards and criteria developed pursuant to this subsection must include provisions for: review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

(Pub. L. 95-87, title V, § 515, Aug. 3, 1977, 91 Stat. 486.)

REFERENCES IN TEXT

Public Law 83-566, referred to in subsec. (b)(8), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, popularly known as the Watershed Protection and Flood Prevention Act, which is classified generally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For

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complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1257, 1258, 1259, 1260, 1262, 1266, 1269, 1276, 1279, 1291, 1300, 1301 of this title.

§ 1266. Surface effects of underground coal mining operations

(a) Rules and regulations

The Secretary shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations, embodying the following requirements and in accordance with the procedures established under section 1251 of this title: *Provided, however,* That in adopting any rules and regulations the Secretary shall consider the distinct difference between surface coal mining and underground coal mining. Such rules and regulations shall not conflict with nor supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 801 et seq.] nor any regulation issued pursuant thereto, and shall not be promulgated until the Secretary has obtained the written concurrence of the head of the department which administers such Act.

(b) Permit requirements

Each permit issued under any approved State or Federal program pursuant to this chapter and relating to underground coal mining shall require the operator to—

(1) adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: *Provided,* That nothing in this subsection shall be construed to prohibit the standard method of room and pillar mining;

(2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations;

(3) fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

(4) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not degrade below water quality standards established pursuant to applicable Federal and State law surface or ground waters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to section 1265(f) of this title, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(6) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) protect offsite areas from damages which may result from such mining operations;

(8) eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;

(9) minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and

(B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable State or Federal law), and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(10) with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 1265 of this title for such effects which result from surface coal mining operations: *Provided,* That the Secretary shall make such modifications in the require-

ments imposed by this paragraph as are necessary to accommodate the distinct difference between surface and underground coal mining;

(11) to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(12) locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

(c) Suspension of underground coal mining operations in urbanized areas

In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(d) Applicability of this subchapter to surface operations and surface impacts incident to underground coal mining operations

The provisions of this subchapter relating to State and Federal programs, permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 1251 of this title.

(Pub. L. 95-87, title V, § 516, Aug. 3, 1977, 91 Stat. 495.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in subsec. (a), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, and is classified principally to chapter 22 (§ 801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1265, 1276, 1279, 1291, 1300, 1301 of this title.

§ 1267. Inspections and monitoring

(a) Inspections of surface coal mining and reclamation operations

The Secretary shall cause to be made such inspections of any surface coal mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface coal mining and reclamation operations.

(b) Records and reports; monitoring systems; evaluation of results

For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this chapter or in the administration and enforcement of any permit under this chapter, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this chapter—

(1) the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary;

(2) for those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well a in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this chapter.

(c) Inspection intervals

The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation

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operation covered by each permit; (2) occur without prior notice to the permittee or his agents or employees except for necessary onsite meetings with the permittee; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.

(d) Maintenance of sign

Each permittee shall conspicuously maintain at the entrance to the surface coal mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

(e) Violations

Each inspector, upon detection of each violation of any requirement of any State or Federal program or of this chapter, shall forthwith inform the operator in writing, and shall report in writing any such violation to the regulatory authority.

(f) Availability of information to public

Copies of any records, reports, inspection materials, or information obtained under this subchapter by the regulatory authority shall be made immediately available to the public at central and sufficient locations in the county, multicounty, and State area of mining so that they are conveniently available to residents in the areas of mining.

(g) Conflict of interest; penalty; publication of regulations; report to Congress

No employee of the State regulatory authority performing any function or duty under this chapter shall have a direct or indirect financial interest in any underground or surface coal mining operation. Whoever knowingly violates the provisions of this subsection shall, upon conviction, be punished by a fine of not more than $2,500, or by imprisonment of not more than one year, or by both. The Secretary shall (1) within sixty days after August 3, 1977, publish in the Federal Register, in accordance with section 553 of title 5, regulations to establish methods by which the provisions of this subsection will be monitored and enforced by the Secretary and such State regulatory authority, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning any financial interest which may be affected by this subsection, and (2) report to the Congress as part of the Annual Report (section 1296 of this title) on actions taken and not taken during the preceding year under this subsection.

(h) Review; procedures for inspections

(1) Any person who is or may be adversely affected by a surface mining operation may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this chapter which he has reason to believe exists at the surface mining site. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation. The Secretary shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(2) The Secretary shall also, by regulation, establish procedures to insure that adequate and complete inspections are made. Any such person may notify the Secretary of any failure to make such inspections, after which the Secretary shall determine whether adequate and complete inspections have been made. The Secretary shall furnish such persons a written statement of the reasons for the Secretary's determination that adequate and complete inspections have or have not been conducted.

(Pub. L. 95-87, title V, § 517, Aug. 3, 1977, 91 Stat. 498.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1300 of this title.

§ 1268. Penalties

(a) Civil penalties for violations of permit conditions and provisions of this subchapter

In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 1252 of this title or during Federal enforcement of a State program pursuant to section 1271 of this title, any permittee who violates any permit condition or who violates any other provision of this subchapter, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 1271 of this title, the civil penalty shall be assessed. Such penalty shall not exceed $5,000 for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b) Hearing

A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Secretary shall consolidate such hearings with other proceedings under section 1271 of this title. Any hearing under this section shall be of record and shall be subject to section 554 of title 5. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall

be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) Notice of violation; action required of violator; waiver of legal rights

Upon the issuance of a notice or order charging that a violation of this chapter has occurred, the Secretary shall inform the operator within thirty days of the proposed amount of said penalty. The person charged with the penalty shall then have thirty days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Secretary for placement in an escrow account. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of the penalty should be reduced, the Secretary shall within thirty days remit the appropriate amount to the person, with interest at the rate of 6 percent, or at the prevailing Department of the Treasury rate, whichever is greater. Failure to forward the money to the Secretary within thirty days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(d) Civil action to recover civil penalties

Civil penalties owed under this chapter, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(e) Willful violations

Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 1252 of this title or during Federal enforcement of a State program pursuant to section 1271 of this title or fails or refuses to comply with any order issued under section 1271 or section 1276 of this title, or any order incorporated in a final decision issued by the Secretary under this chapter, except an order incorporated in a decision issued under subsection (b) of this section or section 1294 of this title, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(f) Corporate violations

Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 1252 of this title or Federal enforcement of a State program pursuant to section 1271 of this title or fails or refuses to comply with any order issued under section 1271 of this title, or any order incorporated in a final decision issued by the Secretary under this chapter except an order incorporated in a decision issued under subsection (b) of this section or section 1293 of this title, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (e) of this section.

(g) False statements, representations, or certifications

Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plant, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order of decision issued by the Secretary under this chapter, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(h) Failure to correct violation

Any operator who fails to correct a violation for which a citation has been issued under section 1271(a) of this title within the period permitted for its correction (which period shall not end until the entry of a final order by the Secretary, in the case of any review proceedings under section 1275 of this title initiated by the operator wherein the Secretary orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings under section 1276 of this title initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation), shall be assessed a civil penalty of not less than $750 for each day during which such failure or violation continues.

(i) Effect on additional enforcement right or procedure available under State law

As a condition of approval of any State program submitted pursuant to section 1253 of this title, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto. Nothing herein shall be construed so as to eliminate any additional enforcement right or procedures which are available under State law to a State regulatory authority but which are not specifically enumerated herein.

(Pub. L. 95-87, title V, § 518, Aug. 3, 1977, 91 Stat. 499.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1262 of this title.

§ 1269. Release of performance bonds or deposits

(a) Filing of request; submittal of copy of advertisement; notification by letter of intent to seek release

The permittee may file a request with the regulatory authority for the release of all or part of a performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regula-

tory authority, the operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit and the date approved, the amount of the bond filed and the portion sought to be released, and the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan. In addition, as part of any bond release application, the applicant shall submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface coal mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

(b) Inspection and evaluation; notification of decision

Upon receipt of the notification and request, the regulatory authority shall within thirty days conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution. The regulatory authority shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty days from the filing of the request, if no public hearing is held pursuant to subsection (f) of this section, and if there has been a public hearing held pursuant to subsection (f) of this section, within thirty days thereafter.

(c) Requirements for release

The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of 60 per centum of the bond or collateral for the applicable permit area.

(2) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility in section 1265 of this title of reestablishing revegetation. No part of the bond or deposit shall be released under this paragraph so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 1265(b)(10) of this title or until soil productivity for prime farm lands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 1257(b)(16) of this title. Where a silt dam is to be retained as a permanent impoundment pursuant to section 1265(b)(8) of this title, the portion of bond may be released under this paragraph so long as provisions for sound future maintenance by the operator or the landowner have been made with the regulatory authority.

(3) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility in section 1265 of this title: *Provided, however,* That no bond shall be fully released until all reclamation requirements of this chapter are fully met.

(d) Notice of disapproval

If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release and allowing opportunity for a public hearing.

(e) Notice to municipality

When any application for total or partial bond release is filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the bond.

(f) Objections to release; hearing

Any person with a valid legal interest which might be adversely affected by release of the bond or the responsible officer or head of any Federal, State, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within thirty days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality

for two consecutive weeks, and shall hold a public hearing in the locality of the surface coal mining operation proposed for bond release or at the State capital at the option of the objector, within thirty days of the request for such hearing.

(g) Informal conference

Without prejudice to the rights of the objectors, the applicant, or the responsibilities of the regulatory authority pursuant to this section, the regulatory authority may establish an informal conference as provided in section 1263 of this title to resolve such written objections.

(h) Power of regulatory authority with respect to informal conference

For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, subpena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing required by this chapter shall be made, and a transcript made available on the motion of any party or by order of the regulatory authority.

(Pub. L. 95-87, title V, § 519, Aug. 3, 1977, 91 Stat. 501.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1265, 1279, 1300 of this title.

§ 1270. Citizens suits

(a) Civil action to compel compliance with this chapter

Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this chapter—

(1) against the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution which is alleged to be in violation of the provisions of this chapter or of any rule, regulation, order or permit issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this subchapter; or

(2) against the Secretary or the appropriate State regulatory authority to the extent permitted by the eleventh amendment to the Constitution where there is alleged a failure of the Secretary or the appropriate State regulatory authority to perform any act or duty under this chapter which is not discretionary with the Secretary or with the appropriate State regulatory authority.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(b) Limitation on bringing of action

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice in writing of the violation (i) to the Secretary, (ii) to the State in which the violation occurs, and (iii) to any alleged violator; or

(B) if the Secretary or the State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this chapter, or any rule, regulation, order, or permit issued pursuant to this chapter, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, or to the appropriate State regulatory authority, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(c) Venue; intervention

(1) Any action respecting a violation of this chapter or the regulations thereunder may be brought only in the judicial district in which the surface coal mining operation complained of is located.

(2) In such action under this section, the Secretary, or the State regulatory authority, if not a party, may intervene as a matter of right.

(d) Costs; filing of bonds

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Effect on other enforcement methods

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this chapter and the regulations thereunder, or to seek any other relief (including relief against the Secretary or the appropriate State regulatory authority).

(f) Action for damages

Any person who is injured in his person or property through the violation by any operator of any rule, regulation, order, or permit issued pursuant to this chapter may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district in which the surface coal mining operation complained of is located. Nothing in this subsection shall affect the rights established by or limits imposed under State Workmen's Compensation laws.

(Pub. L. 95-87, title V, § 520, Aug. 3, 1977, 91 Stat. 503.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1276 of this title.

§ 1271. Enforcement

(a) Notice of violation; Federal inspection; waiver of notification period; cessation order; affirmative obligation on operator; suspension or revocation of permits; contents of notices and orders

(1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this chapter or any permit condition required by this chapter, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. The ten-day notification period shall be waived when the person informing the Secretary provides adequate proof that an imminent danger of significant environmental harm exists and that the State has failed to take appropriate action. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to paragraph (5) of this subsection. Where the Secretary finds that the ordered cessation of surface coal mining and reclamation operations, or any portion thereof, will not completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 1252, or section 1254(b) of this title, or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter; but such violation does not create an imminent danger to the health or safety of the public, or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time but not more than ninety days for the abatement of the violation and providing opportunity for public hearing.

If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon the written finding of the Secretary or his authorized representative, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to paragraph (5) of this subsection. In the order of cessation issued by the Secretary under this subsection, the Secretary shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 1252 or section 1254 of this title or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the Secretary or his authorized representative also find that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this

chapter or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide opportunity for a public hearing. If a hearing is requested the Secretary shall inform all interested parties of the time and place of the hearing. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the Secretary or his authorized representative shall forthwith suspend or revoke the permit.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representatives. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs: *Provided,* That any notice or order issued pursuant to this section which requires cessation of mining by the operator shall expire within thirty days of actual notice to the operator unless a public hearing is held at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of public hearing.

(b) Inadequate State enforcement; notice and hearing

Whenever on the basis of information available to him, the Secretary has reason to believe that violations of all or any part of an approved State program result from a failure of the State to enforce such State program or any part thereof effectively, he shall after public notice and notice to the State, hold a hearing thereon in the State within thirty days of such notice. If as a result of said hearing the Secretary finds that there are violations and such violations result from a failure of the State to enforce all or any part of the State program effectively, and if he further finds that the State has not adequately demonstrated its capability and intent to enforce such State program, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this chapter, the Secretary shall enforce, in the manner provided by this chapter, any permit condition required under this chapter, shall issue new or revised permits in accordance with requirements of this chapter, and may issue such notices and orders as are necessary for compliance therewith: *Provided,* That in the case of a State permittee who has met his obligations under such permit and who did not willfully secure the issuance of such permit through fraud or collusion, the Secretary shall give the permittee a reasonable time to conform ongoing surface mining and reclamation to the requirements of this chapter before suspending or revoking the State permit.

(c) Civil action for relief

The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this chapter, or (B) interferes with, hinders, or delays the Secretary or his authorized representatives in carrying out the provisions of this chapter, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this chapter, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this chapter. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this subchapter, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

(d) Sanctions; effect on additional enforcement rights under State law

As a condition of approval of any State program submitted pursuant to section 1253 of this title, the enforcement provisions thereof shall, at a minimum, incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto. Nothing herein shall be construed so as to eliminate any additional enforcement rights or procedures which are available under State law to a State regulatory authority but which are not specifically enumerated herein.

(Pub. L. 95-87, title V, § 521, Aug. 3, 1977, 91 Stat. 504.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (c), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1253, 1254, 1268, 1275, 1276 of this title.

§ 1272. Designating areas unsuitable for surface coal mining

(a) Establishment of State planning process; standards; State process requirements; integration with present and future land use planning and regulation processes; savings provisions

(1) To be eligible to assume primary regulatory authority pursuant to section 1253 of this title, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this subsection but such designation shall not prevent the mineral exploration pursuant to the chapter of any area so designated.

(2) Upon petition pursuant to subsection (c) of this section, the State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this chapter is not technologically and economically feasible.

(3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will—

(A) be incompatible with existing State or local land use plans or programs; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for surface coal mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on August 3, 1977, or under a permit issued pursuant to this chapter, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977.

(b) Review of Federal lands

The Secretary shall conduct a review of the Federal lands to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations: *Provided, however,* That the Secretary may permit surface coal mining on Federal lands prior to the completion of this review. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 1254 of this title, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section. Prior to designating Federal lands unsuitable for such mining, the Secretary shall consult with the appropriate State and local agencies.

(c) Petition; intervention; decision

Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefore.[1] In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(d) Statement

Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed state-

[1] So in original. Probably should read "therefor".

ment on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

(e) Prohibition on certain Federal public and private surface coal mining operations

After August 3, 1977, and subject to valid existing rights no surface coal mining operations except those which exist on August 3, 1977, shall be permitted—

(1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 1276(a) of title 16 and National Recreation Areas designated by Act of Congress;

(2) on any Federal lands within the boundaries of any national forest: *Provided, however,* That surface coal mining operations may be permitted on such lands if the Secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations and—

(A) surface operations and impacts are incident to an underground coal mine; or

(B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface mining is in compliance with the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531], the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this chapter: *And provided further,* That no surface coal mining operations may be permitted within the boundaries of the Custer National Forest;

(3) which will adversely affect any publicly owned park or places included in the National Register of Historic Sites unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site;

(4) within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the regulatory authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

(5) within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

(Pub. L. 95-87, title V, § 522, Aug. 3, 1977, 91 Stat. 507.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsec. (e)(2)(B), is Pub. L. 86-517, June 12, 1960, 74 Stat. 215, which is classified to sections 528 to 531 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 528 of Title 16 and Tables.

The Federal Coal Leasing Amendments Act of 1975, referred to in subsec. (e)(2)(B), is Pub. L. 94-377, Aug. 4, 1976, 90 Stat. 1083, which enacted sections 202a, 208-1, and 208-2 of this title, amended sections 184, 191, 201, 203, 207, 209, and 352 of this title, repealed sections 201-1 and 204 of this title, and enacted provisions set out as notes under sections 181, 184, 201, 201-1, 203, and 204 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 181 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (e)(2)(B), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of Title 16, Conservation, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of Title 16, repealed sections 476, 513, and 514 of Title 16, enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of Title 16. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of Title 16 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1211, 1253, 1254, 1260, 1273 of this title.

§ 1273. Federal lands

(a) Promulgation and implementation of Federal lands program

No later than one year after August 3, 1977, the Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: *Provided,* That except as provided in section 1300 of this title the provisions of this chapter shall not be applicable to Indian lands. The Federal lands program shall, at a minimum, incorporate all of the requirements of this chapter and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question. Where Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program: *Provided,* That the Secretary shall retain his duties under sections 201(a), (2)(B) and 201(a)(3) of this title, and shall continue to be responsible for designation of Federal lands as unsuitable for mining in accordance with section 1272(b) of this title.

(b) Incorporation of requirements into any lease, permit, or contract issued by Secretary which may involve surface coal mining and reclamation operations

The requirements of this chapter and the Federal lands program or an approved State program for State regulation of surface coal mining on Federal lands under subsection (c) of this section, whichever is applicable, shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve sur-

face coal mining and reclamation operations. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require any surface mining and reclamation operations to conform with the requirements of this chapter and the regulations issued pursuant to this chapter.

(c) State cooperative agreements

Any State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this chapter. States with cooperative agreements existing on August 3, 1977, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 1252 of this title. Nothing in this subsection shall be construed as authorizing the Secretary to delegate to the States his duty to approve mining plans on Federal lands, to designate certain Federal lands as unsuitable for surface coal mining pursuant to section 1272 of this title, or to regulate other activities taking place on Federal lands.

(d) Development of program to assure no unreasonable denial to any class of coal purchasers

The Secretary shall develop a program to assure that with respect to the granting of permits, leases, or contracts for coal owned by the United States, that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

(Pub. L. 95-87, title V, § 523, Aug. 3, 1977, 91 Stat. 510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1253, 1276, 1291, 1292, 1295, 1302 of this title.

§ 1274. Public agencies, public utilities, and public corporations

Any agency, unit, or instrumentality of Federal, State, or local government, including any publicly owned utility or publicly owned corporation of Federal, State, or local government, which proposes to engage in surface coal mining operations which are subject to the requirements of this chapter shall comply with the provisions of this subchapter.

(Pub. L. 95-87, title V, § 524, Aug. 3, 1977, 91 Stat. 511.)

§ 1275. Review by Secretary

(a) Application for review of order or notice; investigation; hearing; notice

(1) A permittee issued a notice or order by the Secretary pursuant to the provisions of paragraphs (2) and (3) of subsection (a) of section 1271 of this title, or pursuant to a Federal program or the Federal lands program or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5.

(b) Findings of fact; issuance of decision

Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein. Where the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to the provisions of paragraph (2) or (3) of subsection (a) of section 1271 of this title, the Secretary shall issue the written decision within thirty days of the receipt of the application for review, unless temporary relief has been granted by the Secretary pursuant to subsection (c) of this section or by the court pursuant to subsection (c) of section 1276 of this title.

(c) Temporary relief; issuance of order or decision granting or denying relief

Pending completion of the investigation and hearing required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 1271 of this title, a Federal program or the Federal lands program together with a detailed statement giving reasons for granting such relief. The Secretary shall issue an order or decision granting or denying such relief expeditiously: *Provided*, That where the applicant requests relief from an order for cessation of coal mining and reclamation operations issued pursuant to

paragraph (2) or (3) of subsection (a) of section 1271 of this title, the order or decision on such a request shall be issued within five days of its receipt. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(3) such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Notice and hearing with respect to section 1271 order to show cause

Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 1271 of this title, the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title 5. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

(e) Costs

Whenever an order is issued under this section, or as a result of any administrative proceeding under this chapter, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

(Pub. L. 95-87, title V, § 525, Aug. 3, 1977, 91 Stat. 511.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1268, 1276 of this title.

§ 1276. Judicial review

(a) Review by United States District Court; venue; filing of petition; time

(1) Any action of the Secretary to approve or disapprove a State program or to prepare or promulgate a Federal program pursuant to this chapter shall be subject to judicial review by the United States District Court for the District which includes the capital of the State whose program is at issue. Any action by the Secretary promulgating national rules or regulations including standards pursuant to sections 1251, 1265, 1266, and 1273 of this title shall be subject to judicial review in the United States District Court for the District of Columbia Circuit. Any other action constituting rulemaking by the Secretary shall be subject to judicial review only by the United States District Court for the District in which the surface coal mining operation is located. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed in the appropriate Court within sixty days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such petition may be made by any person who participated in the administrative proceedings and who is aggrieved by the action of the Secretary.

(2) Any order or decision issued by the Secretary in a civil penalty proceeding or any other proceeding required to be conducted pursuant to section 554 of title 5 shall be subject to judicial review on or before 30 days from the date of such order or decision in accordance with subsection (b) of this section in the United States District Court for the district in which the surface coal mining operation is located. In the case of a proceeding to review an order or decision issued by the Secretary under the penalty section of this chapter, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. This availability of review established in this subsection shall not be construed to limit the operations of rights established in section 1270 of this title.

(b) Evidence; conclusiveness of findings; orders

The court shall hear such petition or complaint solely on the record made before the Secretary. Except as provided in subsection (a) of this section, the findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) Temporary relief; prerequisites

In the case of a proceeding to review any order or decision issued by the Secretary under this chapter, including an order or decision issued pursuant to subsection (c) or (d) of section 1275 of this title pertaining to any order issued under paragraph (2), (3), or 4 of subsection (a) of section 1271 of this title for cessation of coal mining and reclamation operations, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(d) Stay of action, order, or decision of Secretary

The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the Secretary.

(e) Action of State regulatory authority

Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by a court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 1270 of this title except as provided therein.

(Pub. L. 95-87, title V, § 526, Aug. 3, 1977, 91 Stat. 512.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1264, 1268, 1275 of this title.

§ 1277. Special bituminous coal mines

(a) Issuance of separate regulations; criteria

The regulatory authority is authorized to issue separate regulations for those special bituminous coal surface mines located west of the 100th meridian west longitude which meet the following criteria:

(1) the excavation of the specific mine pit takes place on the same relatively limited site for an extended period of time;

(2) the excavation of the specific mine pit follows a coal seam having an inclination of fifteen degrees or more from the horizontal, and continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain stability or as necessary to accommodate the orderly expansion of the total mining operation;

(3) the excavation of the specific mine pit involves the mining of more than one coal seam and mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

(4) the amount of material removed is large in proportion to the surface area disturbed;

(5) there is no practicable alternative method of mining the coal involved;

(6) there is no practicable method to reclaim the land in the manner required by this chapter; and

(7) the specific mine pit has been actually producing coal since January 1, 1972, in such manner as to meet the criteria set forth in this section, and, because of past duration of mining, is substantially committed to a mode of operation which warrants exceptions to some provisions of this subchapter.

(b) New bituminous coal surface mines

Such separate regulations shall also contain a distinct part to cover and pertain to new bituminous coal surface mines which may be developed after August 3, 1977, on lands immediately adjacent to lands upon which are located special bituminous mines existing on January 1, 1972. Such new mines shall meet the criteria of subsection (a) of this section except for paragraphs (3) and (7), and all requirements of State law, notwithstanding in whole or part the regulations issued pursuant to subsection (c) of this section. In the event of an amendment or revision to the State's regulatory program, regulations, or decisions made thereunder governing such mines, the Secretary shall issue such additional regulations as necessary to meet the purposes of this chapter.

(c) Scope of alternative regulations

Such alternative regulations may pertain only to the standards governing onsite handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regrading to the approximate original contour and shall specify that remaining highwalls are stable. All other performance standards in this subchapter shall apply to such mines.

(Pub. L. 95-87, title V, § 527, Aug. 3, 1977, 91 Stat. 513.)

§ 1278. Surface mining operations not subject to this chapter

The provisions of this chapter shall not apply to any of the following activities:

(1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him;

(2) the extraction of coal for commercial purposes where the surface mining operation affects two acres or less; and

(3) the extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction under regulations established by the regulatory authority.

(Pub. L. 95-87, title V, § 528, Aug. 3, 1977, 91 Stat. 514.)

§ 1279. Anthracite coal mines

(a) The Secretary is authorized to and shall issue separate regulations according to time schedules established in this chapter for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence on August 3, 1977, in lieu of sections 1265 and 1266 of this title. Provisions of sections 1259 and 1269 of this title are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this chapter apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: *Provided, however,* That upon amendment of a State's regulatory program for anthracite

mining or regulations thereunder in force in lieu of the above-cited sections of this chapter, the Secretary shall issue such additional regulations as necessary to meet the purposes of this chapter.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1977, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this chapter with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this chapter.

(Pub. L. 95-87, title V, § 529, Aug. 3, 1977, 91 Stat. 514.)

SUBCHAPTER VI—DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL MINING

§ 1281. Designation procedures

(a) Review of Federal land areas for unsuitability for noncoal mining

With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State shall, review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) Criteria considered in determining designations

An area of Federal land may be designated under this section as unsuitable for mining operations if (1) such area consists of Federal land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain, or (2) such area consists of Federal land where mining operations would have an adverse impact on lands used primarily for residential or related purposes.

(c) Petition for exclusion; contents; hearing; temporary land withdrawal

Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) Limitation on designations; rights preservation; regulations

In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) of this section. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary. The Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Statement

Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) Area withdrawal

When the Secretary designates an area of Federal lands as unsuitable for all or certain types of mining operations for minerals and materials other than coal pursuant to this section he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection (e) of this section, that the benefits resulting from such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Right to appeal

Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

(Pub. L. 95-87, title VI, § 601, Aug. 3, 1977, 91 Stat. 515.)

SUBCHAPTER VII—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1253 of this title.

§ 1291. Definitions

For the purposes of this chapter—

(1) "alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for sub-

irrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits;

(2) "approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 1265(b)(8) of this title;

(3) "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

(4) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands: *Provided*, That for the purposes of this chapter lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority shall not be subject to sections 1304 (Surface Owner Protection) and 1305 (Federal Lessee Protection) of this title.

(5) "Federal lands program" means a program established by the Secretary pursuant to section 1273 of this title to regulate surface coal mining and reclamation operations on Federal lands;

(6) "Federal program" means a program established by the Secretary pursuant to section 1254 of this title to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this chapter;

(7) "fund" means the Abandoned Mine Reclamation Fund established pursuant to section 1231 of this title;

(8) "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement;

(9) "Indian lands" means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe;

(10) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

(11) "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(12) "Office" means the Office of Surface Mining Reclamation and Enforcement established pursuant to subchapter II of this chapter;

(13) "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location;

(14) "other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

(15) "permit" means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program;

(16) "permit applicant" or "applicant" means a person applying for a permit;

(17) "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 1259 of this title and shall be readily identifiable by appropriate markers on the site;

(18) "permittee" means a person holding a permit;

(19) "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(20) the term "prime farmland" shall have the same meaning as that previously prescribed by the Secretary of Agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics, and which historically have been used for intensive agricultural purposes, and as published in the Federal Register.

(21) "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 1258 of this title;

(22) "regulatory authority" means the State regulatory authority where the State is administering this chapter under an approved State program or the Secretary where the Secretary is administering this chapter under a Federal program;

(23) "Secretary" means the Secretary of the Interior, except where otherwise described;

(24) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(25) "State program" means a program established by a State pursuant to section 1253 of this title to regulate surface coal mining and reclamation operations, on lands within such State in accord with the requirements of this chapter and regulations issued by the Secretary pursuant to this chapter;

(26) "State regulatory authority" means the department or agency in each State which has primary responsibility at the State level for administering this chapter;

(27) "surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after August 3, 1977;

(28) "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 1266 of this title surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 1262 of this title; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities; and

(29) "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the chapter due to indifference, lack of diligence, or lack of reasonable care;

(30) "lignite coal" means consolidated lignitic coal having less than 8,300 British thermal units per pound, moist and mineral matter free;

(31) the term "coal laboratory", as used in subchapter VIII of this chapter, means a university coal research laboratory established and operated pursuant to a designation made under section 1311 of this title;

(32) the term "institution of higher education" as used in subchapters VIII and IX of this chapter, means any such institution as defined by section 1141(a) of title 20.

(Pub. L. 95-87, title VII, § 701, Aug. 5, 1977, 91 Stat. 516.)

SECTION REFERRED TO IN OTHERE SECTIONS

This section is referred to in section 1252 of this title.

§ 1292. Other Federal laws

(a) Construction of chapter as superseding, amending, modifying, or repealing certain laws

Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321-47), or any of the following Acts or with any rule or regulation promulgated thereunder, including, but not limited to—

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721-740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742) [30 U.S.C. 801 et seq.].

(3) The Federal Water Pollution Control Act (79 Stat. 903), as amended (33 U.S.C. 1151-1175) [33 U.S.C. 1251 et seq.], the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857 et seq.) [42 U.S.C. 7401 et seq.].

(5) The Solid Waste Disposal Act (42 U.S.C. 3251-3259) [42 U.S.C. 6901 et seq.].

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661-666c).

(8) The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

(b) Effect on authority of Secretary or heads of other Federal agencies

Nothing in this chapter shall affect in any way the authority of the Secretary or the

heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

(c) Cooperation

To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this chapter.

(d) Major Federal action

Approval of the State programs, pursuant to section 1253(b) of this title, promulgation of Federal programs, pursuant to section 1254 of this title, and implementation of the Federal lands programs, pursuant to section 1273 of this title, shall not constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Adoption of regulations under section 1251(b) of this title shall constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(Pub. L. 95-87, title VII, § 702, Aug. 3, 1977, 91 Stat. 519.)

REFERENCES IN TEXT

The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), referred to in subsec. (a), is Pub. L. 91-631, Dec. 31, 1970, 84 Stat. 1876.

The National Environmental Policy Act of 1969 (42 U.S.C. 4321-47), referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721-740), referred to in subsec. (a)(1), is Pub. L. 89-577, Sept. 16, 1966, 80 Stat. 772, which was classified generally to chapter 21 (§ 721 et seq.) of this title and was repealed by Pub. L. 95-164, title III, § 306(a), Nov. 9, 1977, 91 Stat. 1322.

The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742), referred to in subsec. (a)(2), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, and is classified principally to chapter 22 (§ 801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Federal Water Pollution Control Act (79 Stat. 903), as amended (33 U.S.C. 1151-1175), referred to in subsec. (a)(3), is act June 30, 1948, ch. 758, 62 Stat. 1155, as amended, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, and is now classified generally to chapter 26 (§ 1251 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (a)(4), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Solid Waste Disposal Act (42 U.S.C. 3251-3259), referred to in subsec. (a)(5), is Pub. L. 89-272, title II, Oct. 20, 1965, 79 Stat. 997, formerly classified to chapter 39 (§ 3251 et seq.) of Title 42, The Public Health and Welfare, which was completely revised by Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2795, and is now classified generally to chapter 82 (§ 6901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

The Refuse Act of 1899 (33 U.S.C. 407), referred to in subsec. (a)(6), probably means act Mar. 3, 1899, ch. 425, § 13, 30 Stat. 1152, which enacted section 407 of Title 33, Navigation and Navigable Waters.

The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661-666c), referred to in subsec. (a)(7), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), referred to in subsec. (a)(8), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

§ 1293. Employee protection

(a) Retaliatory practices prohibited

No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

(b) Review by Secretary; investigation; notice; hearing; findings of fact; judicial review

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein his findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems ap-

propriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he will issue a finding. Orders issued by the Secretary under this subsection shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this chapter.

(c) Costs

Whenever an order is issued under this section to abate any violation, at the request of the applicant a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

(Pub. L. 95-87, title VII, § 703, Aug. 3, 1977, 91 Stat. 520.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1268 of this title.

§ 1294. Penalty

Any person who shall, except as permitted by law, willfully resist, prevent, impede, or interfere with the Secretary or any of his agents in the performance of duties pursuant to this chapter shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both.

(Pub. L. 95-87, title VII, § 704, Aug. 3, 1977, 91 Stat. 520.)

CODIFICATION

Section 704 of Pub. L. 95-87 also amended section 1114 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1268 of this title.

§ 1295. Grants to States

(a) Assisting any State in development, administration, and enforcement of State programs under this chapter

The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this chapter. Except as provided in subsection (c) of this section, such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 50 per centum of the total costs incurred during each year thereafter.

(b) Assisting any State in development, administration, and enforcement of its State programs

The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

(c) Increases in annual grants

If, in accordance with section 1273(d) of this title, a State elects to regulate surface coal mining and reclamation operations on Federal lands, the Secretary may increase the amount of the annual grants under subsection (a) of this section by an amount which he determines is approximately equal to the amount the Federal Government would have expended for such regulation if the State had not made such election.

(Pub. L. 95-87, title VII, § 705, Aug. 3, 1977, 91 Stat. 520.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1302 of this title.

§ 1296. Annual report to President and Congress

The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the States pursuant to this chapter. Among other matters, the Secretary shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this chapter.

(Pub. L. 95-87, title VII, § 706, Aug. 3, 1977, 91 Stat. 521.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1211, 1267 of this title.

§ 1297. Separability of provisions

If any provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 95-87, title VII, § 707, Aug. 3, 1977, 91 Stat. 521.)

§ 1298. Alaskan surface coal mine study

(a) Contract with National Academy of Sciences-National Academy of Engineering

The Secretary is directed to contract to such extent or in such amounts as are provided in advance in appropriation Acts with the National Academy of Sciences-National Academy of

Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine which, if any, of the provisions of this chapter should be modified with respect to surface coal mining operations in Alaska.

(b) Report to President and Congress

The Secretary shall report on the findings of the study to the President and Congress no later than two years after August 3, 1977.

(c) Draft of legislation

The Secretary shall include in his report a draft of legislation to implement any changes recommended to this chapter.

(d) Modification of applicability of environmental protection provisions of this chapter to surface coal mining operations in Alaska; publication in Federal Register; hearing

Until one year after the Secretary has made this report to the President and Congress, or three years after August 3, 1977, whichever comes first, the Secretary is authorized to modify the applicability of any environmental protection provision of this chapter, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding August 3, 1977, if he determines that it is necessary to insure the continued operation of such surface coal mining operation. The Secretary may exercise this authority only after he has (1) published notice of proposed modification in the Federal Register and in a newspaper of general circulation in the area of Alaska in which the affected surface coal mining operation is located, and (2) held a public hearing on the proposed modification in Alaska.

(e) Interim regulations

In order to allow new mines in Alaska to continue orderly development, the Secretary is authorized to issue interim regulations pursuant to section 1251(b) of this title including those modifications to the environmental standards as required based on the special physical, hydrological and climatic conditions in Alaska but with the purpose of protecting the environment to an extent equivalent to those standards for the other coal regions.

(f) Authorization of appropriations

There is authorized to be appropriated for the purpose of this section $250,000: *Provided*, That no new budget authority is authorized to be appropriated for fiscal year 1977.

(Pub. L. 95-87, title VII, § 708, Aug. 3, 1977, 91 Stat. 521.)

§ 1299. Study of reclamation standards for surface mining of other minerals

(a) Contract with National Academy of Sciences-National Academy of Engineering; requirements

The Chairman of the Council on Environmental Quality is directed to contract to such extent or in such amounts as are provided in appropriation Acts with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an in-depth study of current and developing technology for surface and open pit mining and reclamation for minerals other than coal designed to assist in the establishment of effective and reasonable regulation of surface and open pit mining and reclamation for minerals other than coal. The study shall—

(1) assess the degree to which the requirements of this chapter can be met by such technology and the costs involved;

(2) identify areas where the requirements of this chapter cannot be met by current and developing technology;

(3) in those instances describe requirements most comparable to those of this chapter which could be met, the costs involved, and the differences in reclamation results between these requirements and those of this chapter; and

(4) discuss alternative regulatory mechanisms designed to insure the achievement of the most beneficial postmining land use for areas affected by surface and open pit mining.

(b) Submittal of study with legislative recommendation to President and Congress

The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than eighteen months after August 3, 1977: *Provided*, That, with respect to surface or open pit mining for sand and gravel the study shall be submitted no later than twelve months after August 3, 1977: *Provided further*, That with respect to mining for oil shale and tar sands that a preliminary report shall be submitted no later than twelve months after August 3, 1977.

(c) Authorization of appropriations

There are authorized to be appropriated for the purpose of this section $500,000: *Provided*, That no new budget authority is authorized to be appropriated for fiscal year 1977.

(Pub. L. 95-87, title VII, § 709, Aug. 3, 1977, 91 Stat. 522.)

§ 1300. Indian lands

(a) Study of regulation of surface mining; consultation with tribe; proposed legislation

The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purpose of this chapter and recognize the special jurisdictional status of these lands. In carrying out this study the Secretary shall consult with Indian tribes. The study report shall include proposed legislation designed to allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface mining of coal on Indian lands.

(b) Submittal of study to Congress

The study report required by subsection (a) of this section together with drafts of proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than January 1, 1978.

(c) Compliance with interim environmental protection standards of this chapter

On and after one hundred and thirty-five days from August 3, 1977, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by subsections (b)(2), (b)(3), (b)(5), (b)(10), (b)(13), (b)(19), and (d) of section 1265 of this title and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(d) Compliance with permanent environmental protection standards of this chapter

On and after thirty months from August 3, 1977, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 1257, 1258, 1259, 1260, 1265, 1266, 1267, and 1269 of this title and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(e) Inclusion and enforcement of terms and conditions of leases

With respect to leases issued after August 3, 1977, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) of this section as may be requested by the Indian tribe in such leases.

(f) Approval of changes in terms and conditions of leases

Any change required by subsection (c) or (d) of this section in the terms and conditions of any coal lease on Indian lands existing on August 3, 1977, shall require the approval of the Secretary.

(g) Participation of tribes

The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than $700,000 of the funds authorized in section 1302(a) of this title shall be reserved for this purpose.

(h) Jurisdictional status

The Secretary shall analyze and make recommendations regarding the jurisdictional status of Indian Lands outside the exterior boundaries of Indian reservations: *Provided*, That nothing in this chapter shall change the existing jurisdictional status of Indian Lands.

(Pub. L. 95-87, title VII, § 710, Aug. 3, 1977, 91 Stat. 523.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1273, 1302 of this title.

§ 1301. Environmental practices

In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, residential, or public use (including recreational facilities), the regulatory authority with approval by the Secretary may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 1265 and 1266 of this title. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operations approved for particular land-use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

(Pub. L. 95-87, title VII, § 711, Aug. 3, 1977, 91 Stat. 523.)

§ 1302. Authorization of appropriations

There is authorized to be appropriated to the Secretary for the purposes of this chapter the following sums; and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 1252, 1273, and 1300 of this title, there are authorized to be appropriated to the Secretary of the Interior the sum of $10,000,000 for the fiscal year ending September 30, 1978, and $10,000,000 for each of the two succeeding fiscal years.

(b) Commencing in the fiscal year ending September 30, 1978, and for each fiscal year for a period of fifteen fiscal years thereafter, for the implementation and funding of section 1257(c) of this title there are authorized to be appropriated sums reserved by section 1231(b)(1) of this title for the purposes of section 1257(c) of this title and such additional sums, for the fiscal year ending September 30, 1978, and for each fiscal year for a period of fifteen fiscal years thereafter, are authorized to be appropriated as may be necessary to provide an amount not to exceed $10,000,000 to carry out the purposes of section 1257(c) of this title.

(c) For the implementation and funding of section 1295 of this title and for the administrative and other purposes of this chapter, except as otherwise provided for in this chapter, authorization is provided for the sum of $20,000,000 for the fiscal year ending September 30, 1978, and $30,000,000 for each of the two succeeding fiscal years and such funds that are required thereafter.

(d) In order that the implementation of the requirements of this chapter may be initiated in a timely and orderly manner, the Secretary is authorized, subject to the approval of the appropriation Committees of the House and of the Senate, to utilize not to exceed $2,000,000 of the appropriations otherwise available to him for the fiscal year ending September 30, 1977, for the administration and other purposes of this chapter.

(Pub. L. 95-87, title VII, § 712, Aug. 3, 1977, 91 Stat. 524.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1231, 1252, 1300 of this title.

§ 1303. Coordination of regulatory and inspection activities

(a) The President shall, to the extent appropriate, and in keeping with the particular enforcement requirements of each Act referred to herein, insure the coordination of regulatory and inspection activities among the departments, agencies, and instrumentalities to which such activities are assigned by this chapter, by the Clean Air Act [42 U.S.C. 7401 et seq.], by the Water Pollution Control Act [33 U.S.C. 1251 et seq.], by the Department of Energy Organization Act [42 U.S.C. 7101 et seq.], and by existing or subsequently enacted Federal mine safety and health laws, except that no such coordination shall be required with respect to mine safety and health inspections, advance notice of which is or may be prohibited by existing or subsequently enacted Federal mine safety and health laws.

(b) The President may execute the coordination required by this section by means of an Executive order, or by any other mechanism he determines to be appropriate.

(Pub. L. 95-87, title VII, § 713, Aug. 3, 1977, 91 Stat. 524.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

The Water Pollution Control Act, referred to in subsec. (a), probably means act June 30, 1948, ch. 758, 62 Stat. 1155, known as the Federal Water Pollution Control Act, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, and is now classified generally to chapter 26 (§ 1251 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Department of Energy Organization Act, referred to in subsec. (a), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, which is classified principally to chapter 84 (§ 7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

§ 1304. Surface owner protection

(a) Applicability

The provisions of this section shall apply where coal owned by the United States under land the surface rights to which are owned by a surface owner as defined in this section is to be mined by methods other than underground mining techniques.

(b) Lease of coal deposits governed by section 201 of this title

Any coal deposits subject to this section shall be offered for lease pursuant to section 201(a) of this title.

(c) Consent to lease by surface owner

The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent. Valid written consent given by any surface owner prior to August 3, 1977, shall be deemed sufficient for the purposes of complying with this section.

(d) Preferences

In order to minimize disturbance to surface owners from surface coal mining of Federal coal deposits and to assist in the preparation of comprehensive land-use plans required by section 201(a) of this title, the Secretary shall consult with any surface owner whose land is proposed to be included in a leasing tract and shall ask the surface owner to state his preference for or against the offering of the deposit under his land for lease. The Secretary shall, in his discretion but to the maximum extent practicable, refrain from leasing coal deposits for development by methods other than underground mining techniques in those areas where a significant number of surface owners have stated a preference against the offering of the deposits for lease.

(e) "Surface owner" defined

For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

(1) hold legal or equitable title to the land surface;

(2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface coal mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

(3) have met the conditions of paragraphs (1) and (2) for a period of at least three years prior to the granting of the consent.

In computing the three-year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

(f) Exception

This section shall not apply to Indian lands.

(g) Effect on property rights of United States or any other landowner

Nothing in this section shall be construed as increasing or diminishing any property rights by the United States or by any other landowner.

(Pub. L. 95-87, title VII, § 714, Aug. 3, 1977, 91 Stat. 524.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1291 of this title.

§ 1305. Federal lessee protection

In those instances where the coal proposed to be mined by surface coal mining operations is owned by the Federal Government and the surface is subject to a lease or a permit issued by the Federal Government, the application for a permit shall include either:

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land, or in lieu thereof;

(2) evidence of the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved to secure payment of any damages to the surface estate which the operations will cause to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the parties involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under this chapter.

(Pub. L. 95-87, title VII, § 715, Aug. 3, 1977, 91 Stat. 525.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1291 of this title.

§ 1306. Effect on rights of owner of coal in Alaska to conduct surface mining operations

Nothing in this chapter shall be construed as increasing or diminishing the rights of any owner of coal in Alaska to conduct or authorized surface coal mining operations for coal which has been or is hereafter conveyed out of Federal ownership to the State of Alaska or pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]: *Provided*, That such surface coal mining operations meet the requirements of this chapter.

(Pub. L. 95-87, title VII, § 716, Aug. 3, 1977, 91 Stat. 526.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§ 1307. Water rights and replacement

(a) Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.

(b) The operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such surface coal mine operation.

(Pub. L. 95-87, title VII, § 717, Aug. 3, 1977, 91 Stat. 526.)

§ 1308. Advance appropriations

Notwithstanding any other provision of this chapter, no authority to make payments under this chapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95-87, title VII, § 718, Aug. 3, 1977, 91 Stat. 526.)

§ 1309. Certification and training of blasters

In accordance with this chapter, the Secretary of the Interior (or the approved State regulatory authority as provided for in section 1253 of this title) shall promulgate regulations requiring the trianing, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations.

(Pub. L. 95-87, title VII, § 719, Aug. 3, 1977, 91 Stat. 526.)

SUBCHAPTER VIII—UNIVERSITY COAL RESEARCH LABORATORIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1291 of this title.

§ 1311. Establishment of university coal research laboratories

(a) Designation by Administrator

The Administrator, Energy Research and Development Administration (hereafter referred to as "Administrator" in this subchapter), after consultation with the National Academy of Engineering, is authorized and directed to designate ten institutions of higher education at which university coal research laboratories will be established and operated.

(b) Criteria

In making designations under this section, the Administrator shall consider the following criteria:

(1) The institution of higher education shall be located in a State with abundant coal reserves.

(2) The institution of higher education shall have experience in coal research, expertise in several areas of coal research, and potential or currently active, outstanding programs in coal research.

(3) The institution of higher education has the capacity to establish and operate the coal laboratories to be assisted under this subchapter.

(c) Location of coal laboratories

Not more than one coal laboratory established pursuant to this subchapter shall be located in a single State and at least one coal laboratory shall be established within each of the major coal provinces recognized by the Bureau of Mines, including Alaska.

(d) Period for submission of applications for designation; contents

The Administrator shall establish a period, not in excess of ninety days after August 3, 1977, for the submission of applications for designation under this section. Any institution of higher education desiring to be designated under this subchapter shall submit an application to the Administrator in such form, at such time, and containing or accompanied by such information as the Administrator may reasonably require. Each application shall—

(1) describe the facilities to be established for coal energy resources and conversion research and research on related environmental problems including facilities for interdisciplinary academic research projects by the combined efforts of specialists such as mining engineers, mineral engineers, geochemists, mineralogists, mineral economists, fuel scientists, combustion engineers, mineral preparation engineers, coal petrographers, geologists, chemical engineers, civil engineers, mechanical engineers, and ecologists;

(2) set forth a program for the establishment of a test laboratory for coal characterization which, in addition, may be used as a site for the exchange of coal research activities by representatives of private industry engaged in coal research and characterization;

(3) set forth a program for providing research and development activities for students engaged in advanced study in any discipline which is related to the development of adequate energy supplies in the United States. The research laboratory shall be associated with an ongoing educational and research program on extraction and utilization of coal.

(e) Time limit

The Administrator shall designate the ten institutions of higher education under this section not later than ninety days after the date on which such applications are to be submitted.

(Pub. L. 95-87, title VIII, § 801, Aug. 3, 1977, 91 Stat. 526.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1291, 1312 of this title.

§ 1312. Financial assistance

(a) The Administrator is authorized to make grants to any institution of higher education designated under section 1311 of this title to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory.

(b) Each institution of higher education designated pursuant to section 1311 of this title shall submit an application to the Administrator. Each such application shall—

(1) set forth the program to be conducted at the coal laboratory which includes the purposes set forth in section 1311(d) of this title;

(2) provide assurances that the university will pay from non-Federal sources the remaining costs of carrying out the program set forth;

(3) provide such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds received under this subchapter;

(4) provide for making an annual report which shall include a description of the activities conducted at the coal laboratory and an evaluation of the success of such activities, and such other necessary reports in such form and containing such information as the Administrator may require, and for keeping such records and affording such access thereto as may be necessary to assure the correctness and verification of such reports; and

(5) set forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in subsections (d)(1), (2), and (3) of section 1311 of this title, and in no case supplant such funds.

(Pub. L. 95-87, title VIII, § 802, Aug. 3, 1977, 91 Stat. 527.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1313. Limitation on payments

(a) No institutions of higher education may receive more than $4,000,000 for the construction of its coal research laboratory, including initially installed fixed equipment, nor may it receive more than $1,500,000 for initially installed movable equipment, nor may it receive more than $500,000 for new program startup expenses.

(b) No institution of higher education may receive more than $1,500,000 per year from the Federal Government for operating expenses.

(Pub. L. 95-87, title VIII, § 803, Aug. 3, 1977, 91 Stat. 528.)

§ 1314. Payments; Federal share of operating expenses

(a) From the amounts appropriated pursuant to section 1316 of this title, the Administrator shall pay to each institution of higher education having an application approved under this subchapter an amount equal to the Federal share of the cost of carrying out that application. Such payments may be in installments, by

way of reimbursement, or by way of advance with necessary adjustments on account of underpayments or overpayments.

(b) The Federal share of operating expenses for any fiscal year shall not exceed 50 per centum of the cost of the operation of a coal research laboratory.

(Pub. L. 95-87, title VIII, § 804, Aug. 3, 1977, 91 Stat. 528.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1315. Advisory Council on Coal Research

(a) Establishment; members

There is established an Advisory Council on Coal Research which shall be composed of—

(1) the Administrator, ERDA, who shall be Chairman;

(2) the Director of the Bureau of Mines of the Department of the Interior;

(3) the President of the National Academy of Sciences;

(4) the President of the National Academy of Engineering;

(5) the Director of the United States Geological Survey; and

(6) six members appointed by the Administrator from among individuals who, by virtue of experience or training, are knowledgeable in the field of coal research and mining, and who are representatives of institutions of higher education, industrial users of coal and coal-derived fuels, the coal industry, mine workers, nonindustrial consumer groups, and institutions concerned with the preservation of the environment.

(b) Furnishing advice to Administrator

The Advisory Council shall advise the Administrator with respect to the general administration of this subchapter, and furnish such additional advice as he may request.

(c) Annual report to President; transmittal to Congress

The Advisory Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this subchapter) to the President not later than December 31 of each calendar year. The President shall transmit each such report to the Congress.

(d) Compensation and travel expenses

(1) Members of the Council who are not regular officers or employees of the United States Government shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Administrator but not exceeding the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5 and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(2) Members of the Council who are officers or employees of the Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties on the Council.

(e) Alternate members

Whenever a member of the Council appointed under clauses (1) through (5) is unable to attend a meeting, that member shall appoint an appropriate alternate to represent him for that meeting.

(Pub. L. 95-87, title VIII, § 805, Aug. 3, 1977, 91 Stat. 528.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1316. Authorization of appropriations

There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and $7,500,000 beginning with the fiscal year 1980 each fiscal year thereafter through the fiscal year ending June 30, 1983, to carry out the provisions of this subchapter.

(Pub. L. 95-87, title VIII, § 806, Aug. 3, 1977, 91 Stat. 529.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314 of this title.

SUBCHAPTER IX—ENERGY RESOURCE GRADUATE FELLOWSHIPS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1291 of this title.

§ 1321. Fellowship awards

(a) Graduate study and research in areas of applied science and engineering relating to production, conservation, and utilization of fuels and energy

The Administrator ERDA (hereafter referred to as "Administrator" in this subchapter), is authorized to award under the provisions of this subchapter not to exceed one thousand fellowships for the fiscal year ending September 30, 1979, and each of the five succeeding fiscal

years. Fellowships shall be awarded under the provisions of this subchapter for graduate study and research in those areas of applied science and engineering that are related to the production, conservation, and utilization of fuels and energy. Fellowships shall be awarded to students in programs leading to master's degrees. Such fellowships may be awarded for graduate study and research at any institution of higher education, library, archive, or any other research center approved by the Administrator after consultation with the Commissioner of Education.

(b) Term

Such fellowships shall be awarded for such periods as the Administrator may determine, but not to exceed two years.

(c) Replacement awards

In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Administrator is authorized to award fellowships equal to the number previously awarded during any fiscal year under this subchapter but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of graduate work or research, not in excess of the remainder of the period for which the fellowship which it replaces was awarded as the Administrator may determine.

(Pub. L. 95-87, title IX, § 901, Aug. 3, 1977, 91 Stat. 529.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1322. Fellowship recipients

Recipients of fellowships under this subchapter shall be—

(a) persons who have been accepted by an institution of higher education for graduate study leading to an advanced degree or for a professional degree, and

(b) persons who plan a career in the field of energy resources, production, or utilization.

(Pub. L. 95-87, title IX, § 902, Aug. 3, 1977, 91 Stat. 530.)

§ 1323. Distribution of fellowships

In awarding fellowships under the provisions of this subchapter, the Administrator shall endeavor to provide equitable distribution of such fellowships throughout the Nation, except that the Administrator shall give special attention to institutions of higher education, libraries, archives, or other research centers which have a demonstrated capacity to offer courses of study or research in the field of energy resources and conservation and conversion and related disciplines. In carrying out his responsibilities under this section, the Administrator shall take into consideration the projected need for highly trained engineers and scientists in the field of energy sources.

(Pub. L. 95-87, title IX, § 903, Aug. 3, 1977, 91 Stat. 530.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1324. Stipends and allowances

(a) Each person awarded a fellowship under this subchapter shall receive a stipend of not more than $10,000 for each academic year of study. An additional amount of $500 for each such calendar year of study shall be paid to such person on account of each of his dependents.

(b) In addition to the amount paid to such person pursuant to subsection (a) of this section there shall be paid to the institution of higher education at which each such person is pursuing his course of study, 100 per centum of the amount paid to such person less the amount paid on account of such person's dependents, to such person less any amount charged such person for tuition.

(Pub. L. 95-87, title IX, § 904, Aug. 3, 1977, 91 Stat. 530.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1326 of this title.

§ 1325. Limitation on fellowships

No fellowship shall be awarded under this subchapter for study at a school or department of divinity. For the purpose of this section, the term "school or department of divinity" means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

(Pub. L. 95-87, title IX, § 905, Aug. 3, 1977, 91 Stat. 530.)

§ 1326. Fellowship conditions

(a) A person awarded a fellowship under the provisions of this subchapter shall continue to receive the payments provided in section 1324(a) of this title only during such periods as the Administrator finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment in teaching, research, or similar activities, approved by the Administrator.

(b) The Administrator shall require reports containing such information in such forms and to be filed at such times as he determines necessary from each person awarded a fellowship under the provisions of this subchapter. Such

reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Administrator, stating that such person is making satisfactory progress in, and is devoting essentially full time to the research for which the fellowship was awarded.

(Pub. L. 95-87, title IX, § 906, Aug. 3, 1977, 91 Stat. 530.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1327. Authorization of appropriations

There are authorized to be appropriated $11,000,000 for the fiscal year ending September 30, 1979, and for each of the five succeeding fiscal years. For payments for the initial awarding of fellowships awarded under this subchapter, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the five succeeding fiscal years, such sums as may be necessary in order that fellowships already awarded might be completed.

(Pub. L. 95-87, title IX, § 907, Aug. 3, 1977, 91 Stat. 531.)

§ 1328. Research, development projects, etc., relating to alternative coal mining technologies

(a) Authority of Administrator to conduct, promote, etc.

The Administrator is authorized to conduct and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep seams; and

(2) safety and health in the application of such technologies, methods, and means.

(b) Contracts and grants

In conducting the activities authorized by this section, the Administrator may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) Authorization of appropriations

There are authorized to be appropriated to the Administrator, to carry out the purposes of this section, $35,000,000 for each fiscal year beginning with the fiscal year 1979, and for each year thereafter for the next four years.

(d) Publication in Federal Register; report to Congress

At least sixty days before any funds are obligated for any research studies, surveys, experiments or demonstration projects to be conducted or financed under this chapter in any fiscal year, the Administrator in consultation with the heads of other Federal agencies having the authority to conduct or finance such projects, shall determine and publish such determinations in the Federal Register that such projects are not being conducted or financed by any other Federal agency. On December 31 of each calendar year, the Secretary shall report to the Congress on the research studies, surveys, experiments or demonstration projects, conducted or financed under this chapter, including, but not limited to, a statement of the nature and purpose of each project, the Federal cost thereof, the identity and affiliation of the persons engaged in such projects, the expected completion date of the projects and the relationship of the projects to other such projects of a similar nature.

(e) Availability of information to public

Subject to the patent provisions of section 1226(d) of this title, all information and data resulting from any research studies, surveys, experiments, or demonstration projects conducted or financed under this chapter shall be promptly made available to the public.

(Pub. L. 95-87, title IX, § 908, Aug. 3, 1977, 91 Stat. 531.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

TITLE 31—MONEY AND FINANCE

Chap. Sec.
29. Federal Program Information [New].. 1701

CHAPTER 1—THE NATIONAL BUDGET AND AUDIT SYSTEM

SUBCHAPTER II—THE BUDGET

§ 11. President to transmit Budget to Congress

SEPARATE APPROPRIATION ACCOUNTS FOR MINE HEALTH AND SAFETY AND FOR OCCUPATIONAL SAFETY AND HEALTH

Pub. L. 95-164, title III, § 305, Nov. 9, 1977, 91 Stat. 1322, provided that: "In the preparation of the Budget message required under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), the President shall set forth as separate appropriation accounts amounts required for appropriation for mine health and safety pursuant to the Federal Mine Safety and Health Act of 1977 [section 801 et seq. of Title 30, Mineral Lands and Mining] and for occupational safety and health pursuant to the Occupational Safety and Health Act of 1970 [section 651 et seq. of Title 29, Labor]."

§ 16. Office of Management and Budget; Director and Deputy Director; duties; preparation of Budget, etc.

ABOLITION OF DOMESTIC COUNCIL

The Domestic Council, established by Reorg. Plan No. 2 of 1970, § 201, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2086, set out under this section in the main Edition, was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in the Domestic Council to the President with power to delegate the performance of such transferred functions within the Executive Office of the President.

EX. ORD. NO. 11541. PRESCRIBING DUTIES OF OFFICE OF MANAGEMENT AND BUDGET AND DOMESTIC COUNCIL

Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], and pursuant to Reorganization Plan No. 2 of 1970 (hereinafter referred to as "the Plan") [set out as a note under this section], it is ordered as follows:

SECTION 1. (a) All functions transferred to the President of the United States by Part I of the Plan (including the function vested by section 102(f) of designating the officials of the Office of Management and Budget who shall act as Director during the absence or disability of the Deputy Director or in the event of a vacancy in the office of Deputy Director) are hereby delegated to the Director of the Office of Management and Budget in the Executive Office of the President. Such functions shall be carried out by the Director under the direction of the President and pursuant to such further instructions as the President from time to time may issue.

* * * * *

(c) The delegation to the Director of the Office of Management and Budget, pursuant to subsection (a) of this Section, of the functions vested in the Director of the Bureau of the Budget by Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) and subsequently transferred to the President by Part I of Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), is terminated on October 9, 1977.

(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Civil Service Commission) is terminated on December 4, 1977:

(1) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development and management.

(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

* * * * *

EX. ORD. NO. 12013. TRANSFER OF CERTAIN STATISTICAL POLICY FUNCTIONS; ESTABLISHMENT OF STATISTICAL POLICY COORDINATION COMMITTEE

Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to transfer certain functions from the Director of the Office of Management and Budget to the Secretary of Commerce and for other purposes, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11541 of July 1, 1970 [set out as a note above], is amended by adding thereto the following new subsection:

"(c) The delegation to the Director of the Office of Management and Budget, pursuant to subsection (a) of this Section, of the functions vested in the Director

of the Bureau of the Budget by Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) and subsequently transferred to the President by Part I of Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), is terminated on October 9, 1977.".

SEC. 2. Executive Order No. 10253 of June 11, 1951 [set out as a note under section 18b of this title], is amended as follows:

(a) "Director of the Bureau of the Budget" is deleted in Section 1 and "Secretary of Commerce" is substituted.

(b) "Director" is deleted wherever it appears in Sections 1, 2, 4, 5, and 6 and "Secretary" is substituted therefor.

(c) "Bureau of the Budget" is deleted in Section 6 and "Department of Commerce" is substituted.

(d) A new Section 8 is added as follows:

"Sec. 8. The performance of the functions vested in the Secretary by this Order shall be subject to any authority or responsibility vested in the Director of the Office of Management and Budget, including Chapter 35 of Title 44 of the United States Code (the Federal Reports Act).".

SEC. 3. Executive Order No. 10033, as amended [set out as a note under section 286f of Title 22, Foreign Relations and Intercourse], is further amended as follows:

(a) "Director of the Bureau of the Budget" is deleted in Section 1 and "Secretary of Commerce" is substituted.

(b) "Director" is deleted wherever it appears in Sections 1, 2(a), 2(b), 2(c), 3, 4, and 5 and "Secretary" is substituted therefor.

(c) A new Section 7 is added as follows:

"Sec. 7. The performance of the functions vested in the Secretary by this Order shall be subject to any authority or responsibility vested in the Director of the Office of Management and Budget, including Chapter 35 of Title 44 of the United States Code (the Federal Reports Act).".

SEC. 4. Section 4 of Executive Order No. 11961 of January 19, 1977 [set out as a note under section 3101 of Title 22, Foreign Relations and Intercourse], is amended by deleting—

"the Council on International Economic Policy shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4(a)(3) of the Act" [section 3101(a)(3) of Title 22]

and substituting therefor—

"the Secretary of Commerce shall perform the functions set forth in Sections 4(a)(3) and (5)(c) of the Act" [sections 3103(a)(3) and 3104(e) of Title 22].

SEC. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned from the Director of the Office of Management and Budget to the Secretary of Commerce by the delegations made in this Order, are hereby transferred to the Secretary of Commerce.

SEC. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all steps necessary or appropriate to ensure or effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 7. The Secretary of Commerce shall provide advice to the Director of the Office of Management and Budget with respect to the review and preparation of that portion of the annual Budget of the U.S. Government dealing with the gathering, interpreting, and disseminating of statistics and statistical information.

SEC. 8. (a) There is hereby established the Statistical Policy Coordination Committee, hereinafter referred to as the Committee, which shall be composed of the following members, and such other heads of Executive agencies as the President may designate:

(1) The Secretary of Commerce, who shall be the Chairman.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of the Interior.

(7) The Secretary of Agriculture.

(8) The Secretary of Labor.

(9) The Secretary of Health, Education, and Welfare.

(10) The Secretary of Housing and Urban Development.

(11) The Secretary of Transportation.

(12) The Secretary of Energy.

(13) The Chairman, Council of Economic Advisers.

(14) The Director of the Office of Management and Budget.

(15) The Chairman, Board of Governors of the Federal Reserve System is invited to be a member.

(b) The Chairman may designate any other member to act as Chairman during the absence of the Chairman. Each member of the Committee may designate an alternate to serve whenever the regular member is unable to attend any meeting. The Chairman may invite the heads of other Executive agencies or their alternates to participate in Committee deliberations whenever matters which affect the interests of such agencies are to be considered.

(c) The Committee shall advise and assist the President with respect to the improvement, development, and coordination of Federal and other statistical services, and shall perform such other related duties as the President may prescribe.

(d) The Secretary of Commerce, to the extent permitted by law, shall provide such administrative support and such funds as may be necessary to support the functions of the Committee.

(e) Executive agencies shall, to the extent permitted by law, provide such information and assistance as the Committee or the Chairman may request to assist in carrying out the functions of the Committee.

SEC. 9. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned from the Director of the Office of Management and Budget to the Secretary of Commerce by the delegations made in this Order, shall remain in effect until amended, modified, or revoked pursuant to the delegations made in this Order.

SEC. 10. This Order shall be effective October 9, 1977.

JIMMY CARTER.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 12027. TRANSFER OF CERTAIN EXECUTIVE DEVELOPMENT AND OTHER PERSONNEL FUNCTIONS

Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to transfer certain functions from the Director of the Office of Management and Budget to the United

States Civil Service Commission, it is hereby ordered as follows:

SECTION 1. The following functions which heretofore have been performed by the Director of the Office of Management and Budget, either alone or in conjunction with the United States Civil Service Commission, are hereby reassigned and delegated to the United States Civil Service Commission:

(a) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development, and management including:

(1) Devising and establishing programs and encouraging agencies to devise and establish programs to forecast the need for career executive talent and to select, train, develop, motivate, deploy and evaluate the men and women who make up the top ranks of Federal civil service;

(2) Initiating and leading efforts to ensure that potential executive talent is identified, developed and well utilized throughout the Executive Branch and;

(3) Ensuring that executive training and motivation meet current and future needs.

(b) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(c) Providing primary Executive Branch leadership in (1) developing and reviewing a program of policy guidance to departments and agencies for the organization of management's responsibility under the Federal Labor Relations program; and (2) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

SEC. 2. Section 1 of Executive Order No. 11541, as amended [set out as a note above], is further amended by adding thereto the following new subsection:

"(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Civil Service Commission) is terminated on December 4, 1977:

(1) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development and management.

(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.".

SEC. 3. Executive Order No. 11491, as amended [set out as a note under section 7301 of Title 5, Government Organization and Employees], is further amended by amending Section 25(a) to read as follows:

"The Civil Service Commission, in conjunction with the Director of the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and shall periodically review the implementation of these policies. The Civil Service Commission shall be responsible for the day-to-day policy guidance under that program. The Civil Service Commission also shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.".

SEC. 4. Section 5(a) of Executive Order No. 11636 of December 17, 1971 [set out as a note under section 801 of Title 22, Foreign Relations and Intercourse], establishing an Employee-Management Relations Commission as a committee of the Board of the Foreign Service, is amended by deleting: "The representative of the Office of Management and Budget shall be the Chairman of the Commission" and substituting therefor "The representative of the Civil Service Commission shall be the Chairman of the Commission".

SEC. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order from the Office of Management and Budget to the United States Civil Service Commission, are hereby transferred to the United States Civil Service Commission.

SEC. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 7. This Order shall be effective December 4, 1977.

JIMMY CARTER.

§ 18b. Development of programs for preparing statistical information by executive agencies

EX. ORD. NO. 10253. PROVISIONS FOR IMPROVEMENT OF WORK OF FEDERAL EXECUTIVE AGENCIES WITH RESPECT TO STATISTICAL INFORMATION

EX. ORD. NO. 10253, June 11, 1951, 16 F.R. 5605, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, provided:

SECTION 1. The Secretary of Commerce (hereinafter referred to as the Secretary) [now Secretary of the Office of Management and Budget] shall develop programs, and issue regulations and orders, for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies in the executive branch of the Federal Government.

SEC. 2. In order to carry out the provisions of Section 1 of this order, the Secretary shall maintain a continuing study for the improvement of the statistical work of the agencies in the executive branch of the Federal Government with a view to obtaining the maximum benefit from the funds and facilities available for such work, giving due consideration to the constantly changing character of the various needs for statistical information both within and without the Government and, where the statistical work is primarily concerned with operating programs, giving due consideration to administrative needs, statutory requirements, and the needs involved in the development of administrative and legislative recommendations. The Secretary, either upon his own initiative or upon the request of any such agency, shall (a) provide for the interchange of information calculated to improve statistical work, (b) make appropriate arrangements for improving statistical work involving relationships between two or more agencies, and (c) assist the agencies, by other means, to improve their statistical work.

* * * * *

SEC. 4. Regulations and orders issued pursuant to Section 1 hereof shall be signed by the Secretary. When so signed, such regulations and orders shall require no further approval and shall be adhered to by all agencies in the executive branch. Any such regula-

tion or order may pertain to a single agency, a group of agencies, or all agencies in the executive branch.

SEC. 5. In the development of programs and the preparation of regulations and orders for issuance pursuant to Section 1 hereof, the Secretary shall consult Federal agencies whose activities will be substantially affected, and may consult non-Federal groups to the extent he finds it necessary to carry out the purposes of this order.

SEC. 6. The authority outlined in this order is in addition to and not in substitution for the existing authority of the Secretary, or of the Department of Commerce, with respect to statistical and reporting activities. To the extent, however, that this order conflicts with any previous Executive order affecting statistical or reporting activities, the provisions of this order shall control.

* * * * *

SEC. 8. The performance of the functions vested in the Secretary by this Order shall be subject to any authority or responsibility vested in the Director of the Office of Management and Budget, including Chapter 35 of Title 44 of the United States Code (the Federal Reports Act).

CHAPTER 1A—ACCOUNTING AND AUDITING

SUBCHAPTER III—AUDIT OF FINANCIAL TRANSACTIONS OF EXECUTIVE, LEGISLATIVE, AND JUDICIAL AGENCIES

§ 67. Duty of General Accounting Office

[*See main edition for text of* (a) *to* (c)]

(d) Audits of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms; access to records; nondisclosure; General Accounting Office employees with access to taxpayer information lists; report to Congress and congressional committees; contents

(1) The Comptroller General shall make, under such rules and regulations as he shall prescribe, audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury: *Provided,* That such audits shall not affect the finality of findings or decisions of the Secretary of the Treasury or his delegate under section 6406 of title 26.

(2) For the purposes of, and to the extent necessary in, making the audits required by paragraph (1) of this subsection, representatives of the General Accounting Office—

(A) shall, to the extent provided by, and subject to the requirements imposed by, section 6103 of title 26 but notwithstanding the provisions of any other law, have access to returns and return information (as defined by section 6103(b) of title 26); and

(B) shall, notwithstanding the provisions of any other law, have access to all other books, accounts, financial records, reports, files, papers, things, and property belonging to or in use by the Internal Revenue Service or the Bureau of Alcohol, Tobacco, and Firearms:

Provided, That no officer or employee of the General Accounting Office shall, except as otherwise expressly provided by law, divulge or make known in any manner whatever to any person, other than another officer or employee of such office whose official duties or responsibilities require such disclosure, any information described in clause (B) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Any such officer or employee who makes a disclosure in violation of this proviso shall be subject to the penalties provided by law.

(3) The Comptroller General shall, from time to time, but not less often than once every six months, designate in writing the name and title of each officer and employee of the General Accounting Office who, pursuant to the provisions of paragraph (2) of this subsection, is to have access to tax returns and tax return information, or any information described in clause (B) of such paragraph (2), in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. Each such written designation, or a certified copy thereof, promptly shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms.

(4) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed. In addition, the Comptroller General shall submit an annual written report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, the Committee on Government Operations of the House of Representatives, and the Committee on Governmental Affairs of the Senate which report shall include, but shall not be limited to, the following:

(A) The procedures and requirements which the General Accounting Office, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms have established for protecting the confidentiality of tax returns and tax return information made available to the Comptroller General under this subsection;

(B) the scope and subject matter of any audit or other examination or review authorized under paragraph (1) of this subsection; and

(C) any findings, conclusions, or recommendations developed by the Comptroller General as a result of any audit or other examination or review authorized under paragraph (1) of this subsection including any significant evidence of inefficiency or mismanagement.

(As amended Oct. 7, 1977, Pub. L. 95-125, 91 Stat. 1104.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-125 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 104a; title 26 section 6103; title 42 section 2996h.

CHAPTER 2—AUDIT AND SETTLEMENT OF ACCOUNTS

§ 99. Repealed. Pub. L. 85-56, § 2202(38), (40), June 17, 1957, 71 Stat. 163

Section, acts July 1, 1890, ch. 646, 26 Stat. 209; Sept. 1, 1890, No. 43, 26 Stat. 679, related to affidavits and declarations in bounty cases, claims for back pay, and certification of the official character and signature of the officer taking the affidavits and declarations.

EFFECTIVE DATE OF REPEAL

Section repealed effective Jan. 1, 1958, see section 2301 of Pub. L. 85-86.

CHAPTER 5—THE BUREAU OF ENGRAVING AND PRINTING

SUBCHAPTER II—FINANCING OF BUREAU OPERATIONS

§ 181. Reimbursement for work performed; prompt payment

ADJUSTMENT OF PRICES FOR WORK AND SERVICES

Pub. L. 95-81, title I, § 100, July 31, 1977, 91 Stat. 342, provided additional capital for the Bureau of Engraving and Printing Fund established by this subchapter by appropriating to the Fund, notwithstanding section 181a(e) of this title, the full amount of payments made since July 1, 1974, and after July 31, 1977, for work and services in accordance with this section at prices adjusted to permit the acquisition of capital equipment and to provide future working capital.

CHAPTER 6—DEBTS DUE BY, OR TO, THE UNITED STATES

§ 203. Assignments of claims; set-off against assignee

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 711 of this title; title 22 sections 1004, 2392; title 26 section 6422; title 43 section 1628; title 50 section 1651; title 50 App. 1215.

CHAPTER 7—BUREAU OF THE MINT, MINTS, AND ASSAY OFFICES

SUBCHAPTER II—MINTS AND ASSAY OFFICES

§ 283. Business of San Francisco assay office

The business of the United States assay office in San Francisco shall be in all respects similar to that of the assay office of New York except that until the Secretary of the Treasury determines that the mints of the United States are adequate for the production of ample supplies of coins, its facilities may be used for the production of coins. The Officer in Charge shall be allowed the amount of necessary and bona fide wastage as determined by the Secretary of the Treasury but not to exceed that provided for the melter and refiner in section 355 of this title, for wastage incurred in the casting of fine gold and silver bars. Such wastage allowance shall not apply to deposit operations.

(R.S. § 3558; Feb. 20, 1895, ch. 105, §§ 1, 2, 28 Stat. 673; July 11, 1962, Pub. L., 87-534, §§ 2, 3(m), 76 Stat. 155; July 23, 1965, Pub. L. 89-81, title II, § 201, 79 Stat. 256.)

CODIFICATION

Section is set out in this Supplement to correct a typographical error in the main edition.

CHAPTER 8—COINS, COINAGE, AND CURRENCY

SUBCHAPTER II—COINS AND COINAGE

§ 355. Allowance for wastage

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 281, 283, 322, 341, 350, 369 of this title.

CHAPTER 9—LEGAL TENDER

§ 463. Provision for payment of obligations in gold prohibited; uniformity in value of coins and currencies

APPLICABILITY TO OBLIGATIONS ISSUED ON OR AFTER OCTOBER 28, 1977

Pub. L. 95-147, § 4(c), Oct. 28, 1977, 91 Stat. 1229, provided that: "The joint resolution entitled 'Joint resolution to assure uniform value to the coins and currencies of the United States', approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section [Oct. 28, 1977]."

CHAPTER 10—THE PUBLIC MONEYS

SUBCHAPTER I—GENERAL PROVISIONS

§ 529. Advances of public moneys; prohibition against

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 529b, 529f, 530a, 531, 545 of this title; title 2 section 475; title 5 sections 3381, 4109, 5923, 5924; title 7 sections 4271, 1624; title 10 sections 2127, 2388, 6154, 7522; title 12 section 1701z-2; title 15 sections 634, 2056, 2451, 2609, 2626; title 16 sections 460*l*-1, 565a-1, 581i-1; title 18 sections 4109, 4204; title 20 sections 959, 1221e-3, 2012, 2106; title 21 sections 360d, 360j; title 22 sections 289c, 294, 2103, 2179; title 30 section 1226; title 33 section 1254; title 37 section 1006; title 40 section 462; title 42 sections 242m, 247d, 263d, 286d, 287b, 292f, 294t, 295f-4, 295g-9, 295g-10, 296k, 300c-11, 300c-21, 300c-22, 300d-5, 300e-2, 300e-3, 300u, 1453, 1456, 1870, 1961c-2, 3105, 4101, 4372, 4585, 6009, 7403, 7404; title 49 sections 66, 1353, 1603, 1604, 1638, 1643; title 50 sections 491, 502, 522; title 50 App. section 1918.

§ 529b. Advances for United States Customs Service in foreign countries

Section 529 of this title shall not apply to payments made for the United States Customs Service in foreign countries.

(May 6, 1939, ch. 115, title I, § 1, 53 Stat. 660.)

CODIFICATION

Section is set out in this supplement to correct a typographical error in the main edition.

CHAPTER 11—APPROPRIATIONS

SUBCHAPTER I—GENERAL PROVISIONS

§ 581c. Adjustment of appropriations in connection with reorganizations

TRANSFER OF CERTAIN STATISTICAL POLICY FUNCTIONS

Section 5 of Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, set out as a note under section 16 of this title, provides for the transfer of appropriations, records, personnel, etc., from the Director of the Office of Management and Budget to the Secretary of Commerce relating to certain statistical policy functions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 5872, 7291.

§ 638c. Maximum purchase price of motor vehicles; exceptions

REPEATED

Pub. L. 95-81, title VI, § 601, July 31, 1977, 91 Stat. 354.

§ 638f. Department of Defense

REPEATED

Pub. L. 95-101, § 105, Aug. 15, 1977, 91 Stat. 839.

§ 649a. Appropriations of Air Force, Army, and Navy available for pay and allowances of prisoners of war and similar persons

REPEATED

Pub. L. 95-111, title VIII, § 805, Sept. 21, 1977, 91 Stat. 899.

§ 699b. Citizenship requirement for federal employees compensated from appropriated funds

Unless otherwise specified and during the current fiscal year no part of any appropriation shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on July 31, 1977, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and July 31, 1977: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal-clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

(Pub. L. 95-81, title VI, § 602, July 31, 1977, 91 Stat. 354.)

SIMILAR PROVISIONS

Section is from the Treasury, Postal Service, and General Government Appropriation Act, 1978, Pub. L. 95-81. Similar provisions were contained in the following prior appropriation act:

Sept. 22, 1976, Pub. L. 94-419, title VII, § 750, 90 Stat. 1299.

§ 700. Defense Department appropriations; alien personnel

REPEATED

Pub. L. 95-111, title VIII, § 803, Sept. 21, 1977, 91 Stat. 899.

§ 700a. Department of Defense appropriations; property, services, and commodities; acceptance from foreign countries; quarterly reports

REPEATED

Pub. L. 95-111, title VIII, § 819, Sept. 21, 1977, 91 Stat. 903.

§ 700b. Department of Defense appropriations; access roads; advances for construction

REPEATED

Pub. L. 95-101, § 106, Aug. 15, 1977, 91 Stat. 839.

SUBCHAPTER II—APPROPRIATION ACCOUNTS

§ 701. Accounting procedure

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 705, 706 of this title; title 14 section 659.

SUBCHAPTER III—PERMANENT ANNUAL APPROPRIATIONS

§ 711. Permanent indefinite appropriations

CODIFICATION

Pub. L. 95-128, title I, § 108(2), Oct. 12, 1977, 91 Stat. 1123, redesignated § 108(f) of Pub. L. 93-383, cited as a credit to this section, as § 108(i).

§ 724a. Appropriations for payment of judgments and compromise settlements against the United States

There are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment, not otherwise provided for, as certified by the

Comptroller General, of final judgments, awards, and compromise settlements, which are payable in accordance with the terms of section 2414, 2517, 2672, or 2677 of title 28, together with such interest and costs as may be specified in such judgments or otherwise authorized by law: *Provided,* That interest on a judgment of a district court to which the provisions of section 2411(b) of title 28 apply, payable from this appropriation, shall be paid only when such judgment becomes final after review on appeal or petition by the United States, and then only from the date of the filing of the transcript thereof in the General Accounting Office to the date of the mandate of affirmance (except that in cases reviewed by the Supreme Court interest shall not be allowed beyond the term of the Court at which the judgment was affirmed): *Provided further,* That interest on a judgment rendered by the Court of Claims, payable from this appropriation, in accordance with subsection 2516(b) of title 28, shall be computed from the date of the filing of the transcript thereof in the General Accounting Office: *Provided further,* That any judgment or compromise settlement against the United States arising out of an express or implied contract entered into by the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration, shall be paid in accordance with this section and sections 2414, 2517, and 2518 of title 28, and such instrumentality shall reimburse the United States for a judgment or compromise settlement paid by the United States. Judgments against the United States arising out of activities of the United States Postal Service shall be paid by the Postal Service out of any funds available to it.

(As amended May 4, 1977, Pub. L. 95-26, title I, 91 Stat. 96.)

AMENDMENTS

1977—Pub. L. 95-26 eliminated the provisions under which adjudicated and financially certified claims against the United States government of over $100,000 could not be paid out by the Comptroller General but had to be referred to Congress and funded through appropriations acts.

CHAPTER 12—THE PUBLIC DEBT

SUBCHAPTER I—GENERAL PROVISIONS

§ 752. Second, third, and fourth Liberty loans; amount; bonds

[*See main edition for text of first paragraph*]

The bonds authorized in this section shall be in such form or forms and denomination or denominations and subject to such terms and conditions of issue, conversion, redemption, maturities, payment, and rate or rates of interest, not exceeding 4¼ per centum per annum, and time or times of payment of interest, as the Secretary of the Treasury from time to time at or before the issue thereof may prescribe. The principal and interest thereof shall be payable in United States legal tender coin or currency of the present standard of value. Bonds authorized by this section may be issued from time to time to the public and to Government accounts at a rate or rates of interest exceeding 4¼ per centum per annum; except that bonds may not be issued under this section to the public, or sold by a Government account to the public, with a rate of interest exceeding 4¼ per centum per annum in an amount which would cause the face amount of bonds issued under this section then held by the public with rates of interest exceeding 4¼ per centum per annum to exceed $27,000,000,000.

[*See main edition for text of third and fourth pars.*]

(As amended Oct. 4, 1977, Pub. L. 95-120, § 3, 91 Stat. 1090.)

AMENDMENTS

1977—Pub. L. 95-120 substituted "$27,000,000,000" for "$17,000,000,000".

§ 757b. Public debt limit: limitations on obligations issued under Second Liberty Loan

TEMPORARY INCREASES IN PUBLIC DEBT LIMIT

The public debt limit set forth in this section was temporarily increased for a limited period by the following Act:

Oct. 4, 1977, Pub. L. 95-120, § 1, 91 Stat. 1090—Increase of $352,000,000,000 for the period Oct. 4, 1977, to Mar. 31, 1978.

REPEALS OF TEMPORARY DEBT LIMIT INCREASES

Pub. L. 94-334, § 1, June 30, 1976, 90 Stat. 793, providing for a temporary increase of $300,000,000,000 in the public debt limit for the period Apr. 1, 1977, to Sept. 30, 1977, was repealed by Pub. L. 95-120, § 2, Oct. 4, 1977, 91 Stat. 1090.

CHAPTER 13—CREDIT AND CURRENCY EXPANSION

§ 822a. Dealings in gold, foreign exchange, instruments of credit and securities

[*See main edition for text of* (*a*)]

(b) Stabilization fund; audit by General Accounting Office

To enable the Secretary of the Treasury to carry out the provisions of this section there is appropriated, out of the receipts which are directed to be covered into the Treasury under section 408b of this title, the sum of $2,000,000,000, which sum when available shall be deposited with the Treasurer of the United States in a stabilization fund (hereinafter called the "fund") under the exclusive control of the Secretary of the Treasury, with the approval of the President, whose decisions shall be final and not be subject to review by any other officer of the United States. Subject to the foregoing provisions the administrative expenses of the fund shall be audited by the General Accounting Office at such times and in such manner as the Comptroller General of the United States may by regulation prescribe for the purpose of ascertaining that administrative funds are properly accounted for and that fully adequate accounting procedures and systems

for control of such funds have been established. Except for information determined by the Secretary to be of an internationally significant nature, there shall be furnished to the Comptroller General such information on the administrative expenses of the fund as is necessary to conduct the audit, and the Comptroller General or any of his representatives shall, for the purpose of securing this information, have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the United States Government (other than records, reports, files, or other papers or things containing or revealing information determined by the Secretary of the Treasury to be of an internationally significant nature). The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section. Such fund shall not be used in any manner whereby direct control and custody thereof pass from the President and the Secretary of the Treasury. The proceeds of all sales and investments and all earnings and interest accruing under the operations of this section shall be paid into the fund and shall be available for the purposes of the fund.

[*See main edition for text of* (c)]

(As amended Oct. 28, 1977, Pub. L. 95-147, § 4(b)(2), 91 Stat. 1229.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 94-564, §§ 7, 9, Oct. 19, 1976, 90 Stat. 2661, as amended by Pub. L. 95-147, § 4(b)(1), Oct. 28, 1977, 91 Stat. 1229, provided that effective upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in resolution numbered 31-4 of the Board of Governors of the Fund, subsec. (a) of this section is amended to read as follows:

"The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary, consistent with the United States obligations in the International Monetary Fund regarding orderly exchange arrangements and a stable system of exchange rates: Provided, however, That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months. The Secretary of the Treasury shall annually make a report on the operations of the fund to the President and to the Congress."

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-147, § 4(b)(2), substituted "the purposes prescribed by this section" for "stabilizing the exchange value of the dollar".

CHAPTER 20—DEPARTMENT OF THE TREASURY

Sec.
1038. Investment of public moneys [New].

§ 1038. Investment of public moneys

The Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods of up to ninety days in (1) obligations of depositaries maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided*, That the authority granted under this section shall not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further*, That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution. Investments in obligations of depositaries maintaining such accounts shall be made at rates of interest prescribed by the Secretary of the Treasury, after taking into consideration prevailing market rates of interest.

(Pub. L. 95-147, § 1, Oct. 28, 1977, 91 Stat. 1227.)

CHAPTER 24—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1351 of this title; title 42 sections 1315, 5302, 6101, 6727.

SUBCHAPTER I—ALLOCATION AND PAYMENT OF FUNDS

§ 1225. Allocation among States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1227, 1228 of this title; title 42 section 603.

SUBCHAPTER II—ADMINISTRATIVE PROVISIONS

§ 1242. Nondiscrimination provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1241, 1244, 1263 of this title; title 42 section 6727.

§ 1244. Private civil actions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1242 of this title; title 42 section 6727.

§ 1245. Investigations and compliance reviews; regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 6727.

SUBCHAPTER III—GENERAL PROVISIONS

§ 1261. Definitions and special rules

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 6723.

CHAPTER 25—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

§ 1302. Definitions

For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 1322 of this title;

(B) a concurrent resolution reaffirming or revising the congressional budget for the United States Government for a fiscal year as provided in section 1331 of this title; and

(C) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 1325 of this title.

(5) The term "appropriation Act" means an Act referred to in section 105 of title 1.

(As amended Pub. L. 95-110, § 1, Sept. 20, 1977, 91 Stat. 884.)

AMENDMENTS

1977—Pub. L. 95-110 struck out the designation "(a)" preceding "For the purpose of this chapter" and struck out subsec. (b), which provided that the members of the respective houses of the Congress who were members of the Joint Committee on Atomic Energy were to be treated as standing committees of their respective houses of the Congress.

CHAPTER 28—PAYMENTS TO LOCAL GOVERNMENTS FOR ENTITLEMENT LANDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 30 section 1232.

CHAPTER 29—FEDERAL PROGRAM INFORMATION [NEW]

Sec.
1701. Definitions.
1702. Identification and dissemination of information respecting Federal domestic assistance programs by Director of Office of Management and Budget.
1703. Federal Assistance Information Data Base; preparation, maintenance, and contents; informational sources.
1704. Computerized program information system.
(a) Establishment and maintenance to provide access to data base.
(b) Availability of information in data base through computer terminals.
(c) Computer time-sharing service contracts with private organizations.
(d) Availability of information at reasonable prices.
(e) Information services for assistance of State and local government officials.
1705. Catalog of Federal Domestic Assistance Programs.
(a) Annual preparation and publication.
(b) Preparation and publication of supplements.
(c) Preparation and publication of specialized compilations.
(d) Contents and form.
(e) Availability to public at reasonable prices; free distribution to Members of Congress, etc.
1706. Transfer to Office of Management and Budget by Director of Federal Assistance Programs Retrieval System personnel and documents in Department of Agriculture.
1707. Authorization of appropriations.

§ 1701. Definitions

For the purpose of this chapter, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services;

(2) "Federal agency" means an agency as defined by section 551(1) of title 5;

(3) "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits for a State or States, territorial possession, county, city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or indi-

vidual, other than an agency of the Federal Government; and

(4) "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

(Pub. L. 95-220, § 2, Dec. 28, 1977, 91 Stat. 1615.)

SHORT TITLE

Section 1 of Pub. L. 95-220 provided: "That this Act [enacting this chapter and provision set out as a note below] may be cited as the 'Federal Program Information Act'."

FEDERAL INFORMATION SYSTEMS STUDY BY DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET; REPORT TO CONGRESS

Section 9 of Pub. L. 95-220 provided that: "The Director of the Office of Management and Budget shall conduct a study of existing Federal information systems that provide fiscal, budgetary, and program-related data, statistics, and information on grant awards and shall report to the Congress, within one year from the date of enactment of this Act [Dec. 28, 1977], his recommendations for appropriate dissemination of Federal financial information, a summary of all executive branch actions taken within the year to consolidate, reorganize, and improve the existing financial information system, and his recommendations for statutory changes necessary to further develop and improve methods for the dissemination of Federal financial information, using modern communications technology."

§ 1702. Identification and dissemination of information respecting Federal domestic assistance programs by Director of Office of Management and Budget

The Director of the Office of Management and Budget (hereinafter referred to as the "Director") shall identify all existing Federal domestic assistance programs and provide information on each such program to the general public through electronic media as authorized under section 1704 of this title and through a printed catalog as authorized under section 1705 of this title.

(Pub. L. 95-220, § 3, Dec. 28, 1977, 91 Stat. 1615.)

§ 1703. Federal Assistance Information Data Base; preparation, maintenance, and contents; informational sources

(a) The Director shall prepare and maintain a Federal Assistance Information Data Base (hereinafter referred to in this chapter as the "data base"). For each Federal domestic assistance program the data base shall—

(1) identify each such program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Director;

(2) describe the program, the objectives of the program, and the types of activities which have been funded under the program;

(3) describe the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provide financial information, including the amount of funds appropriated for the current fiscal year or, if unavailable, the amount of funds requested by the President, and the amounts obligated, and the average amounts of awards made in past years;

(5) identify information contacts including the administering office and regional and local offices and their addresses and telephone numbers;

(6) provide a general description of any application requirements and procedures and, to the extent practical, an estimate of the time required to process the application.

(b)(1) Each Federal agency shall furnish to the Director, at such times as the Director may determine, current information on all domestic assistance programs administered by such Federal agency.

(2) The Director shall on a regular basis incorporate into the data base all relevant information received under paragraph (1) of this subsection.

(Pub. L. 95-220, § 4, Dec. 28, 1977, 91 Stat. 1615.)

§ 1704. Computerized program information system

(a) Establishment and maintenance to provide access to data base

The Director shall establish and maintain a computerized information system to provide access to the data base.

(b) Availability of information in data base through computer terminals

The Director, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals wherever available.

(c) Computer time-sharing service contracts with private organizations

The Director, notwithstanding any other provision of law to the contrary, when he determines the efficiency of the information system established pursuant to subsection (a) of this section requires it, may enter into contracts with private organizations to obtain computer time-sharing services including, but not limited to, computer telecommunications networks, computer software, and associated services.

(d) Availability of information at reasonable prices

The Director shall insure that the information available under this chapter is made available to the public at a reasonable price.

(e) Information services for assistance of State and local government officials

The Director may develop information services to further assist State and local government officials identify or obtain sources of Federal assistance.

(Pub. L. 95-220, § 5, Dec. 28, 1977, 91 Stat. 1616)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1702 of this title.

§ 1705. Catalog of Federal Domestic Assistance Programs

(a) Annual preparation and publication

The Director shall prepare and publish each year a catalog of Federal Domestic Assistance Programs (hereinafter referred to in this chapter as the "catalog").

(b) Preparation and publication of supplements

The Director shall prepare and publish supplements to the catalog as necessary.

(c) Preparation and publication of specialized compilations

The Director may prepare and publish specialized compilations of the information in the catalog by function as necessary.

(d) Contents and form

The catalog shall contain, in such form as the Director determines—

(1) all substantive information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the Director considers may be helpful to potential applicants or beneficiaries under such programs; and

(3) a detailed index.

(e) Availability to public at reasonable prices; free distribution to Members of Congress, etc.

(1) The Director shall make each catalog available to the public at a reasonable price.

(2) There are authorized to be distributed, without cost, catalogs to Members of Congress, Delegates, Resident Commissioners, agencies, State and general purpose units of local government, federally recognized Indian tribes, Federal deposit libraries, and other local repositories designated by the Director.

(Pub. L. 95-220, § 6, Dec. 28, 1977, 91 Stat. 1616.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1702 of this title.

§ 1706. Transfer to Office of Management and Budget by Director of Federal Assistance Programs Retrieval System personnel and documents in Department of Agriculture

The Director is authorized to transfer to the Office of Management and Budget all personnel, books, records, and other documents of the Department of Agriculture of any kind or description which he determines to be principally held or engaged in the operation and function of the Federal Assistance Programs Retrieval System (FAPRS).

(Pub. L. 95-220, § 7, Dec. 28, 1977, 91 Stat. 1617.)

§ 1707. Authorization of appropriations

There are authorized to be appropriated $900,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980.

(Pub. L. 95-220, § 8, Dec. 28, 1977, 91 Stat. 1617.)

TITLE 32—NATIONAL GUARD

This title was enacted by act Aug. 10, 1956, ch. 1041, § 2, 70A Stat. 596

CHAPTER 1—ORGANIZATION

§ 105. Inspection

(a) Under regulations prescribed by him, the Secretary of the Army may have an inspection made by inspectors general, or, if necessary, by any other commissioned officers of the Regular Army detailed for that purpose, to determine whether—

(1) the amount and condition of property held by the Army National Guard are satisfactory;

(2) The Army National Guard is organized as provided in this title;

(3) the members of the Army National Guard meet prescribed physical and other qualifications;

(4) the Army National Guard and its organization are properly uniformed, armed, and equipped and are being trained and instructed for active duty in the field, or for coast defense;

(5) Army National Guard records are being kept in accordance with this title; and

(6) the accounts and records of each property and fiscal officer are properly maintained.

The Secretary of the Air Force has a similar duty with respect to the Air National Guard.

[*See main edition for text of (b)*]

(As amended July 30, 1977, Pub. L. 95-79, title VIII, § 804(a), 91 Stat. 333.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-79 added cl. (6) and substituted "Under regulations prescribed by him, the Secretary of the Army may have an inspection made" for "The Secretary of the Army shall have an inspection made at least once a year".

CHAPTER 7—SERVICE, SUPPLY, AND PROCUREMENT

§ 708. Property and fiscal officers

[*See main edition for text of (a) to (c)*]

(d) The Secretaries shall prescribe a maximum grade, commensurate with the functions and responsibilities of the office, but not above colonel, for the property and fiscal officer of the United States for the National Guard of each State or Territory, Puerto Rico, the Canal Zone, and the District of Columbia.

(e) The Secretary of the Army and the Secretary of the Air Force shall prescribe joint regulations necessary to carry out subsections (a)—(d).

(f) A property and fiscal officer may intrust money to an officer of the National Guard to make disbursements as his agent. Both the officer to whom money is intrusted, and the property and disbursing officer intrusting the money to him, are pecuniarily responsible for that money to the United States. The agent officer is subject, for misconduct as an agent, to the liabilities and penalties prescribed by law in like cases for the property and fiscal officer for whom he is acting.

[(g) Redesignated (f).]

(As amended July 30, 1977, Pub. L. 95-79, title VIII, § 804(b), 91 Stat. 333.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-79, § 804(b)(1), (2), redesignated former subsec. (e) as (d). Former subsec. (d), which authorized inspections at least once a year by Inspectors General of the departments concerned, was struck out.

Subsec. (e). Pub. L. 95-79, § 804(b)(2), (3), redesignated former subsec. (f) as (e) and, as so redesignated, substituted "(d)" for "(e)". Former subsec. (e) was redesignated as (d).

Subsecs. (f), (g). Pub. L. 95-79, § 804(b)(2), redesignated former subsecs. (f) and (g) as (e) and (f), respectively.

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chap.		Sec.
21.	International Regulations for Preventing Collisions at Sea [Repealed]	1051
30.	International Regulations for Preventing Collisions at Sea [New]	1601

CHAPTER 3—NAVIGATION RULES FOR HARBORS, RIVERS, AND INLAND WATERS GENERALLY

SUBCHAPTER I—PRELIMINARY

§ 154. Adoption of rules for navigation of harbors, rivers, and inland waters

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 356, 1604 of this title.

CHAPTER 4—NAVIGATION RULES FOR GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS

SUBCHAPTER I—PRELIMINARY

§ 241. Adoption of rules for navigation of Great Lakes, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1604 of this title.

CHAPTER 5—NAVIGATION RULES FOR RED RIVER OF THE NORTH AND RIVERS EMPTYING INTO GULF OF MEXICO AND TRIBUTARIES

SUBCHAPTER I—PRELIMINARY

§ 301. Adoption of rules

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 1604 of this title.

CHAPTER 9—PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS GENERALLY

SUBCHAPTER I—IN GENERAL

§ 407. Deposit of refuse in navigable waters generally

SHORT TITLE

This section is popularly known as the Refuse Act of 1899.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 412, 413, 418, 419, 702i of this title; title 30 section 1292; title 48 section 1399.

SUBCHAPTER VII—DAM INSPECTION PROGRAM

§ 467a. Inspection of dams; exceptions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 10—ANCHORAGE GROUNDS AND HARBOR REGULATIONS GENERALLY

Sec.
476. Restrictions on tanker traffic in Puget Sound and adjacent waters [New].

§ 476. Restrictions on tanker traffic in Puget Sound and adjacent waters

(a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after October 18, 1977, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as

of October 18, 1977), other than oil to be refined for consumption in the State of Washington.

(Pub. L. 95-136, § 5, Oct. 18, 1977, 91 Stat. 1168.)

CHAPTER 15—FLOOD CONTROL

§ 701. Flood control generally

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health, and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11296

Ex. Ord. No. 11296, Aug. 10, 1966, 31 F.R. 10663, as amended by Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, set out as a note under this section in the 1976 Edition of this Code, which related to the evaluation of flood hazard in locating federally owned or financed buildings, roads, and other facilities, and in disposing of federal lands and properties, was revoked by Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 701b-4. Administration of surveys; number authorized; reports

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 701f-1. Additional authorization

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 701j. Installation in dams of facilities for future development of hydro-electric power

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 701n. Flood emergencies; extraordinary wind, wave, or water damage to federally authorized hurricane or shore protective structures; emergency supplies of drinking water; drought; well construction and water transportation

(a) There is authorized an emergency fund to be expended in flood emergency preparation, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective structure damaged or destroyed by wind, wave, or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection. The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean drinking water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is authorized: *Provided,* That pending the appropriation of sums to such emergency fund, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary.

(b)(1) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that (A) as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water, (B) an adequate supply of water can be made available to such farmer, rancher, or political subdivision through the construction of a well, and (C) as a result of the drought such well could not be constructed by a private business, the Secretary, subject to paragraph (3) of this subsection, may enter into an agreement with such farmer, rancher, or political subdivision for the construction of such well.

(2) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water and water cannot be obtained by such farmer, rancher, or political subdivision, the Secretary may transport water to such farmer, rancher, or political subdivision by methods which include, but are

not limited to, small-diameter emergency water lines and tank trucks, until such time as the Secretary determines that an adequate supply of water is available to such farmer, rancher, or political subdivision.

(3)(A) Any agreement entered into by the Secretary pursuant to paragraph (1) of this subsection shall require the farmer, rancher, or political subdivision for whom the well is constructed to pay to the United States the reasonable cost of such construction, with interest, over such number of years, not to exceed thirty, as the Secretary deems appropriate. The rate of interest shall be that rate which the Secretary determines would apply if the amount to be repaid was a loan made pursuant to section 636(b)(2) of title 15.

(B) The Secretary shall not construct any well pursuant to this subsection unless the farmer, rancher, or political subdivision for whom the well is being constructed has obtained, prior to construction, all necessary State and local permits.

(4) The Federal share for the transportation of water pursuant to paragraph (2) of this subsection shall be 100 per centum.

(5) For purposes of this subsection—

(A) the term "construction" includes construction, reconstruction, or repair;

(B) the term "distressed area" means an area which the Secretary determines due to drought conditions has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property;

(C) the term "political subdivision" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over the water supply of such public body;

(D) the term "reasonable cost" means the lesser of (i) the cost to the Secretary of constructing a well pursuant to this subsection exclusive of the cost of transporting equipment used in the construction of wells, or (ii) the cost to a private business of constructing such well;

(E) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers; and

(F) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(As amended June 20, 1977, Pub. L. 95-51, § 2, 91 Stat. 233.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-51 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-51 added subsec. (b).

CHAPTER 16—LIGHTHOUSES

§ 776. Payment out of Civil Service retirement and disability fund

Annuities authorized by sections 771 to 775 of this title may, on and after July 31, 1977, be paid out of the Civil Service retirement and disability fund.

(Pub. L. 95-81, title IV, § 401, July 31, 1977, 91 Stat. 347.)

SIMILAR PROVISIONS

Section is from the Treasury, Postal Service, and General Government Appropriation Act, 1978, Pub. L. 95-81. Similar provisions were contained in the following prior appropriations act:

Pub. L. 94-363, title IV, § 401, July 14, 1976, 90 Stat. 969.

CHAPTER 17—NATIONAL OCEAN SURVEY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
857-13. National Advisory Committee on Oceans and Atmosphere [New].
857-14. Membership, terms, and duties [New].
(a) Membership.
(b) Terms.
(c) Chairman.
(d) Duties.
857-15. Reports [New].
(a) In general.
(b) Review by Secretary.
(c) Annual report submittal.
857-16. Compensation and travel expenses [New].
857-17. Interagency cooperation and assistance [New].
(a) Liaison.
(b) Agency assistance.
(c) Administrative assistance.
857-18. Authorization of appropriations [New].

SUBCHAPTER I—GENERAL PROVISIONS

§ 851. Commissioned officers; authorized number

There are authorized in the National Oceanic and Atmospheric Administration 399 commissioned officers on the active list.

(Pub. L. 95-86, title III, § 301, Aug. 2, 1977, 91 Stat. 431.)

SHORT TITLE

Pub. L. 95-63, § 1, July 5, 1977, 91 Stat. 265 provided: "That this Act [enacting sections 857-13 to 857-18 of this title, repealing sections 857-6 to 857-12 of this title, and enacting a provision set out as a note under section 857-13 of this title] may be cited as the 'National Advisory Committee on Oceans and Atmosphere Act of 1977'."

SIMILAR PROVISIONS

Section is from the Department of Commerce Appropriation Act, 1978. Similar provisions were contained in the following prior appropriation act:

July 14, 1976, Pub. L. 94-362, title III, § 301, 90 Stat. 949.

§§ 857-6 to 857-12. Repealed. Pub. L. 95-63, § 7(a), July 5, 1977, 91 Stat. 267

Section 857-6, Pub. L. 92-125, § 1, Aug. 16, 1971, 85 Stat. 344, established the National Advisory Committee on Oceans and Atmosphere. See section 857-13 of this title.

Section 857-7, Pub. L. 92-125, § 2, Aug. 16, 1971, 85 Stat. 344, provided for the membership, terms of office, duties, and Chairman and Vice Chairman of the Committee. See section 857-14 of this title.

Section 857-8, Pub. L. 92-125, § 3, Aug. 16, 1971, 85 Stat. 344, provided for the designation of a senior policy official of Federal departments and agencies to assist the Committee. See section 857-17(a) of this title.

Section 857-9, Pub. L. 92-125, § 4, Aug. 16, 1971, 85 Stat. 344; Pub. L. 94-69, § 2, Aug. 5, 1975, 89 Stat. 384, provided for an annual report by the Committee. See section 857-15 of this title.

Section 857-10, Pub. L. 92-125, § 5, Aug. 16, 1971, 85 Stat. 344, provided for the compensation and travel expenses of Committee members. See section 857-16 of this title.

Section 857-11, Pub. L. 92-125, § 6, Aug. 16, 1971, 85 Stat. 345, provided for assistance to the Committee by Federal departments and agencies. See section 857-17 of this title.

Section 857-12, Pub. L. 92-125, § 7, Aug. 16, 1971, 85 Stat. 345; Pub. L. 92-567, Oct. 25, 1972, 86 Stat. 1181; Pub. L. 94-69, § 1, Aug. 5, 1975, 89 Stat. 384, authorized appropriations for operation of the Committee. See section 857-18 of this title.

§ 857-13. National Advisory Committee on Oceans and Atmosphere

There is hereby established a committee of 18 members to be known as the National Advisory Committee on Oceans and Atmosphere (hereinafter in sections 857-13 to 857-18 of this title referred to as the "Committee").

(Pub. L. 95-63, § 2, July 5, 1977, 91 Stat. 265.)

Prior Provisions

A provision similar to that contained in this section, which established a National Advisory Committee on Oceans and Atmosphere with a membership of twenty-five, was contained in section 857-6 of this title, prior to repeal of that section by section 7(a) of Pub. L. 95-63.

Short Title

For Short Title of Pub. L. 95-63, see section 1 of Pub. L. 95-63, set out as a Short Title note under section 851 of this title.

Transfer of Personnel, Positions, Records, and Funds

Section 7(b) of Pub. L. 95-63 provided that: "All personnel, positions, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions specified by the Act of August 16, 1971 [former sections 857-6 to 857-12 of this title] (establishing an advisory committee on oceans and atmosphere), are hereby transferred to the National Advisory Committee on Oceans and Atmosphere established by this Act [sections 857-13 to 857-18 of this title]. The personnel transferred under this subsection shall be so transferred without reduction in classification or compensation except, that after such transfer, such personnel shall be subject to reductions in classification or compensation in the same manner, to the same extent, and according to the same procedure as other employees of the United States classified and compensated according to the General Schedule in title 5, United States Code.

Termination of Advisory Committees

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

Section Referred to in Other Sections

This section is referred to in sections 857-17, 857-18 of this title.

§ 857-14. Membership

(a) Appointment and qualifications

The members of the Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President. Members shall be appointed only from among individuals who are eminently qualified by way of knowledge and expertise in the following areas of direct concern to the Committee—

(1) one or more of the disciplines and fields included in marine science and technology, marine industry, marine-related State and local governmental functions, coastal zone management, or other fields directly appropriate for consideration of matters of ocean policy; or

(2) one or more of the disciplines and fields included in atmospheric science, atmospheric-related State and local governmental functions, or other fields directly appropriate for consideration of matters of atmospheric policy.

(b) Terms

(1) The term of office of a member of the Committee shall be 3 years; except that, of the original appointees, 6 shall be appointed for a term of 1 year, 6 shall be appointed for a term of 2 years, and 6 shall be appointed for a term of 3 years.

(2) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be reappointed to the Committee for more than one additional 3-year term. A member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office, or until 90 days after such date, whichever is earlier. The terms of office for members first appointed after July 5, 1977, shall begin on July 1, 1977.

(c) Chairman

The President shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(d) Duties

The Committee shall—

(1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; and

(2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration.

(Pub. L. 95-63, § 3, July 5, 1977, 91 Stat. 265.)

PRIOR PROVISIONS

Provisions similar to those contained in this section, which related to membership, terms, and duties of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in section 857-7 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

§ 857-15. Reports

(a) In general

The Committee shall submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and shall submit such other reports as may from time to time be requested by the President or the Congress.

(b) Review by Secretary

Each annual report shall also be submitted to the Secretary of Commerce, who shall, within 60 days after receipt thereof, transmit his or her comments and recommendations to the President and to the Congress.

(c) Annual report submittal

The annual report required under subsection (a) of this section shall be submitted on or before June 30 of each year, beginning with June 30, 1978.

(Pub. L. 95-63, § 4, July 5, 1977, 91 Stat. 266.)

PRIOR PROVISIONS

A provision similar to that contained in this section, which required an annual report, beginning June 30, 1972, from the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, was contained in section 857-9 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

§ 857-16. Compensation and travel expenses

Members of the Committee shall each be entitled to receive compensation of $100 per day for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Committee. In addition, while away from their homes or regular places of business in the performance of the duties of the Committee, each member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.

(Pub. L. 95-63, § 5, July 5, 1977, 91 Stat. 266.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in text, was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

PRIOR PROVISIONS

A provision similar to that contained in this section, which authorized compensation and travel expenses for members of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, was contained in section 857-10 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

§ 857-17. Interagency cooperation and assistance

(a) Liaison

The head of each department or agency of the Federal Government concerned with marine and atmospheric matters shall designate a senior policy official to participate as observer in the work of the Committee and offer necessary assistance.

(b) Agency assistance

The Committee is authorized to request from the head of any department, agency, or independent instrumentality of the Federal Government any information and assistance it deems necessary to carry out the functions as-

signed under sections 857-13 to 857-18 of this title. The head of each such department, agency, or instrumentality is authorized to cooperate with the Committee, and, to the extent permitted by law, to furnish such information and assistance to the Committee upon request made by the Chairman, without reimbursement for such services and assistance.

(c) Administrative assistance

The Secretary of Commerce shall make available to the Committee such staff, information, personnel, and administrative services and assistance as may reasonably be required to carry out the provisions of sections 857-13 to 857-18 of this title.

(Pub. L. 95-63, § 6, July 5, 1977, 91 Stat. 266.)

PRIOR PROVISIONS

Provisions similar to those contained in this section which required the designation of senior policy officials as observers, directed the Secretary of Commerce to provide administrative assistance, and authorized requests for assistance from Federal agencies by the Federal Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in sections 857-8 and 857-11 of this title prior to repeal of those sections by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-18 of this title.

§ 857-18. Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out sections 857-13 to 857-18 of this title not to exceed $520,000 for the fiscal year ending September 30, 1978. Such sums as may be appropriated under this section shall remain available until expended.

(Pub. L. 95-63, § 8, July 5, 1977, 91 Stat. 267.)

PRIOR PROVISIONS

Provisions similar to those contained in this section which authorized appropriations, beginning with an authorization of $200,000 for the fiscal year ending June 30, 1972, for the operation of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in section 857-12 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

SECTION REFERRED TO IN OHER SECTIONS

This section is referred to in sections 857-13, 857-17 of this title.

CHAPTER 18—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION

§ 941. Safety rules and regulations

[*See main edition for text of (a) to (d)*]

(e) Jurisdiction to restrain violations

The United States district courts shall have jurisdiction for cause shown, in any action brought by the Secretary, represented as provided in section 921a of this title, to restrain violations of this section or of any rule, regulation, or order of the Secretary adopted to carry out the provisions of this section.

[*See main edition for text of (f) and (g)*]

CODIFICATION

As originally enacted, subsec. (e) contained the phrase ", together with the District Court for the Territory of Alaska," following "the United States district courts". The phrase has been deleted as superfluous in view of Pub. L. 85-508, July 7, 1958, 72 Stat. 339 (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions) which admitted Alaska into the union and enacted section 81A of Title 28, Judiciary and Judicial Procedure, constituting Alaska as one judicial district and in view of section 132 of Title 28 which provides that: "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district."

CHAPTER 19—SAINT LAWRENCE SEAWAY

§ 983. Functions of Corporation

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsecs. (a)(2) and (b), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 988. Rates of charges or tolls

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsec. (a), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 990. Offenses and penalties

[*See main edition for text of (a)*]

(b) Frauds and false entries, reports, or statements

Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

[*See main edition for text of* (c)]

CODIFICATION

Subsec. (b) is set out in this Supplement to correct a typographical error in the main edition.

CHAPTER 20—POLLUTION OF THE SEA BY OIL

§ 1004a. United States tankers; construction standards

[*See main edition for text of* (a)]

(b) Building contracts placed or keel laid before effective date

Every tanker to which this chapter applies and built in the United States and for which the building contract is placed, or in the absence of a building contract the keel of which is laid or which is at a similar state of construction, before the effective date of this section, shall, within two years after that date, comply with the provisions of annex C of the convention if—

(1) the delivery of the tanker is after January 1, 1977; or

(2) the delivery of the tanker is not later than January 1, 1977, and the building contract is placed after January 1, 1972, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction, after June 30, 1972.

[*See main edition for text of* (c) *to* (e)]

CODIFICATION

Subsec. (b) is set out in this Supplement to correct a typographical error in the main edition.

CHAPTER 21—INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA

§ 1051. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section Pub. L. 88-131, § 1, Sept. 24, 1963, 77 Stat. 194, authorized the President to proclaim the International Regulations for Preventing Collisions at Sea. See section 1602 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

REPEALS; EFFECTIVE DATE; REFERENCES IN OTHER LAWS TO ACT OCTOBER 11, 1951

Pub. L. 88-131, § 3, Sept. 24, 1963, 77 Stat. 194, repealed by section 10 of Pub. L. 95-75, provided for the repeal of Act Oct. 11, 1951, ch. 495, 65 Stat. 406, which had adopted the prior regulations [set out in former sections 144 et seq. of this title] and provided for the effective date of this chapter. See section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§§ 1052, 1053. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1052, Pub. L. 88-131, § 2, Sept. 24, 1963, 77 Stat. 194, provided for certification for alternative compliance covering Navy and Coast Guard vessels of special construction or purpose. See section 1605 of this title.

Section 1053, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 195, constituted an introductory statement for the regulations. See section 1602 of this title.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§ 1061. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 195, generally described the scope of sections 1061 to 1094.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§§ 1062 to 1074. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1062, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 196, set out the requirements for vessels while under way.

Section 1063, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 197, set the requirements for towing or pushing other vessels or seaplanes.

Section 1064, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 197, related to vessels and seaplanes not under command, and vessels engaged in certain operations.

Section 1065, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 198, related to sailing vessels under way, vessels or seaplanes being towed, and vessels being pushed ahead.

Section 1066, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 199, related to vessels in bad weather.

Section 1067, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 199, related to substitute lights for power-driven vessels towing or pushing other vessels, vessels under oars or sails, vessels being towed or pushed ahead, and rowing boats.

Section 1068, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 200, related to pilot-vessels on and off duty.

Section 1069, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 201, related to fishing vessels and trawling vessels.

Section 1070, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 202, related to stern and tail lights.

Section 1071, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 202, related to vessels and sea lanes at anchor and aground.

Section 1072, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, provided for the use of additional lights and signals when necessary.

Section 1073, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to ships of war, convoy vessels, fishing vessels, seaplanes in water, and naval and military vessels and seaplanes of special construction.

Section 1074, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to vessels proceeding under sail when also propelled by machinery.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§§ 1075 to 1077. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1075, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, set out general considerations concerning radar.

Section 1076, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to sound signals.

Section 1077, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to speed in weather restricting visibility.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§§ 1078 to 1089. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1078, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205, set out the general considerations related to steering and sailing.

Section 1079, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205, related to sailing vessels approaching one another.

Section 1080, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205, related to power-driven vessels meeting end on.

Section 1081, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to power-driven vessels crossing.

Section 1082, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to vessels or seaplanes meeting.

Section 1083, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to vessels having the right of way and the duty in aiding to avert a collision.

Section 1084, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to the duty to take positive action to keep out of the way.

Section 1085, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to the duty to slacken speed, stop, or reverse.

Section 1086, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to the duty of the overtaking vessels to keep out of the way.

Section 1087, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207, related to the duties of power-driven vessels in narrow channels.

Section 1088, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207, related to the right-of-way of fishing vessels.

Section 1089, Pub. L. 88-131, Sept. 24, 1963, 77 Stat. 207, related to the departure from rules in special circumstances to avoid immediate danger.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§ 1090. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207, related to sound signals indicating course.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§§ 1091 to 1093. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1091, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208, related to additional precautions.

Section 1092, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208, related to rules for harbours and inland navigation.

Section 1093, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208, related to distress signals.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

§ 1094. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 209, set out general considerations and recommendations on the use of radar information as an aid to avoiding collisions at sea.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75 set out in part as a note under section 1601 of this title.

CHAPTER 22—SEA GRANT COLLEGES AND MARINE SCIENCE DEVELOPMENT

SUBCHAPTER II—NATIONAL SEA GRANT PROGRAM

§ 1124a. Contracts and grants for international cooperation

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out this section not to exceed $3,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978. Such sums as may be appropriated under this section shall remain available until expended.

(As amended Pub. L. 95-58, § 2, June 29, 1977, 91 Stat. 254.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-58 substituted "each of the fiscal years ending September 30, 1977, and September 30, 1978" for "the fiscal year ending September 30, 1977".

§ 1125. National project grants or contracts

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out this section not to exceed $5,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978. Such sums as may be appropriated pursuant to this subsection shall remain available until expended. The amounts obligated to be expended for the purposes set forth in subsection (a) of this section shall not, in any fiscal year, exceed an amount equal to 10 percent of the sums appropriated for such year pursuant to section 1131 of this title.

(As amended Pub. L. 95-58, § 1, June 29, 1977, 91 Stat. 254.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-58 substituted "each of the fiscal years ending September 30, 1977, and September 30, 1978" for "the fiscal year ending September 30, 1977".

§ 1131. Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out the provisions of this subchapter (other than section 1125 of this title) not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, and

September 30, 1978. Such sums as may be appropriated under this section shall remain available until expended.

(As amended Pub. L. 95-58, § 1, June 29, 1977, 91 Stat. 254.)

AMENDMENTS

1977—Pub. L. 95-58 substituted "each of the fiscal years ending September 30, 1977, and September 30, 1978" for "the fiscal year ending September 30, 1977".

CHAPTER 26—WATER POLLUTION PREVENTION AND CONTROL

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Sec.
1281a. Total treatment system funding [New].
1294. Public information and education on recycling and reuse of wastewater, use of land treatment, and reduction of wastewater volume [New].
1295. Requirements for American materials [New].
1296. Determination of priority of projects [New].
1297. Guidelines for cost-effectiveness analysis [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1293a, 1402, 1502, 1503 of this title; title 15 section 636; title 16 section 1456; title 26 sections 48, 169; title 30 sections 201, 1242, 1251, 1253, 1292, 1303; title 40 App. sections 212, 214; title 42 sections 3102, 3188a, 4365, 4905, 6901, 6905, 6907, 6949; title 43 sections 421h, 1577, 1595, 1597; title 49 section 1604.

SUBCHAPTER I—RESEARCH AND RELATED PROGRAMS

§ 1251. Congressional declaration of goals and policy

[*See main edition for text of* (a)]

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter. It is the policy of Congress that the States manage the construction grant program under this chapter and implement the permit programs under sections 1342 and 1344 of this title. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

[*See main edition for text of* (c) *to* (f)]

(g) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 5(a), 26(b), 91 Stat. 1567, 1575.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-217, § 26(b), added provisions expressing Congressional policy that the States manage the construction grant program under this chapter and implement the permit program under sections 1342 and 1344 of this title.

Subsec. (g). Pub. L. 95-217, § 5(a), added subsec. (g).

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-217 provided: "That this Act [enacting sections 1281a, 1294 to 1296, and 1297 of this title, amending sections 1251, 1252, 1254 to 1256, 1259, 1262, 1263, 1281, 1282 to 1288, 1291, 1292, 1311, 1314, 1315, 1317 to 1319, 1321 to 1324, 1328, 1341, 1342, 1344, 1345, 1362, 1364, 1375, and 1376 of this title, enacting provisions set out as notes under sections 1251, 1284, 1286, 1314, 1321, 1342, 1344, and 1376 of this title, and amending a provision set out as a note under this section] may be cited as the 'Clean Water Act of 1977'."

SHORT TITLE

* * * * *

Section 518 of Act June 30, 1948, ch. 758, title V, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 896, and amended Dec. 27, 1977, Pub. L. 95-217, § 2, 91 Stat. 1566, provided that: "This Act [this chapter] may be cited as the 'Federal Water Pollution Control Act' (commonly referred to as the Clean Water Act)."

SEAFOOD PROCESSING STUDY; SUBMITTAL OF RESULTS TO CONGRESS NOT LATER THAN JANUARY 1, 1979

Pub. L. 95-217, § 74, Dec. 27, 1977, 91 Stat. 1609, provided that: "The Administrator of the Environmental Protection Agency shall conduct a study to examine the geographical, hydrological, and biological characteristics of marine waters to determine the effects of seafood processes which dispose of untreated natural wastes into such waters. In addition, such study shall examine technologies which may be used in such processes to facilitate the use of the nutrients in these wastes or to reduce the discharge of such wastes into the marine environment. The results of such study shall be submitted to Congress not later than January 1, 1979."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1311 of this title.

§ 1252. Comprehensive programs for water pollution control

[*See main edition for text of* (a) *to* (c)]

(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Planning Act [42 U.S.C. 1962 et seq.], shall submit a report to Congress on or before July 1, 1978, which analyzes the relationship between programs under this chapter, and the programs by which State and Federal agencies allocate quantities of water. Such report shall include recommendations concerning the policy in section 1251(g) of this title to improve coordination of efforts to reduce and eliminate pollution

in concert with programs for managing water resources.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 5(b), 91 Stat. 1567.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (d), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-217 added subsec. (d).

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under Part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§ 1254. Research, investigations, training, and information

[*See main edition for text of (a) to (m)*]

(n) Comprehensive studies of effects of pollution on estuaries and estuarine zones; reports

[*See main edition for text of (1) and (2)*]

(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any six-year period. Copies of each such report shall be made available to all interested parties, public and private.

[*See main edition for text of (4); (o) and (p)*]

(q) Sewage in rural areas; national clearinghouse for alternative treatment information

[*See main edition for text of (1) and (2)*]

(3) The Administrator shall establish, either within the Environmental Protection Agency, or through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this chapter related to paragraph (1) of this subsection and to subsection (e)(2) of section 1255 of this title; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions, and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities, and persons.

[*See main edition for text of (r) to (t)*]

(u) Authorization of appropriations

There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, for carrying out the provisions of this section other than subsections (g)(1) and (2), (p), (r), and (t) of this section; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, and $3,000,000 for fiscal year 1980, for carrying out the provisions of subsection (g)(1) of this section; (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,500,000 for fiscal year 1980, for carrying out the provisions of subsection (g)(2) of this section; (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p) of this section; (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r) of this section; and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t) of this section.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 4(a), (b), 6, 7, 91 Stat. 1566, 1567.)

AMENDMENTS

1977—Subsec. (n)(3). Pub. L. 95-217, § 6, substituted "any six-year period" for "any three year period".

Subsec. (q)(3). Pub. L. 95-217, § 7, added subsec. (q)(3).

Subsec. (u)(2). Pub. L. 95-217, § 4(a), substituted "1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, and $3,000,000 for fiscal year 1980," for "1975".

Subsec. (u)(3). Pub. L. 95-217, § 4(b), substituted "1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,500,000 for fiscal year 1980," for "1975".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1263, 1322, 1375, 1376 of this title.

§ 1255. Grants for research and development

[*See main edition for text of (a) to (h)*]

(i) Assistance for research and demonstration projects

The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section, section 1254 of this title, or section 1263 of this title prior to December 27, 1977, so as to reduce the operation and maintenance costs borne by the recipients of services from such project to costs comparable to those for projects assisted under subchapter II of this chapter.

(j) Assistance for recycle, reuse, and land treatment projects

The Administrator is authorized to make a grant to any grantee who received an increased grant pursuant to section 1282(a)(2) of this title. Such grant may pay up to 100 per centum of the costs of technical evaluation of the operation of the treatment works, costs of training of persons (other than employees of the grantee), and costs of disseminating technical information on the operation of the treatment works.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 8, 9, 91 Stat. 1568.)

AMENDMENTS

1977—Subsec. (i). Pub. L. 95-217, § 8, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 9, added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1263, 1375, 1376 of this title.

§ 1256. Grants for pollution control programs

(a) Authorization of appropriations for state and interstate programs

There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purpose of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 for the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980;

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

[*See main edition for text of (b) to (g)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 4(c), 91 Stat. 1566.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-217 substituted "and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980" for "and the fiscal year ending June 30, 1975".

§ 1259. Training grants and contracts

[*See main edition for text of (a)*]

(b)(1) The Administrator may pay 100 per centum of any additional cost of construction of treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material.

(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to carry out at such facility a program of training approved by the Administrator. In any case where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each such State.

(3) The Administrator may make such grant out of the sums allocated to a State under section 1285 of this title, except that in no event shall the Federal cost of any such training facilities exceed $500,000.

(4) The Administrator may exempt a grant under this section from any requirement under section 1284(a)(3) of this title. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 10, 91 Stat. 1568.)

REFERENCES IN TEXT

Prior to the date of enactment of the Clean Water Act of 1977, referred to in subsec. (b)(4), means prior to the enactment of Pub. L. 95-217, Dec. 27, 1977, 91 Stat. 1566, which was enacted Dec. 27, 1977.

Such Act, referred to in subsec. (b)(4), means Pub. L. 95-217, Dec. 27, 1977, 91 Stat. 1566, known as the Clean Water Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1251 of this title and Tables.

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-217, § 10(c), (d), substituted "cost of construction of treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material" for "cost of construction of a treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel".

Subsec. (b)(2). Pub. L. 95-217, § 10(e), authorized the Administrator to make an additional grant for a supplemental facility in each of the States in any case where a grant is made to serve two or more States.

Subsec. (b)(3). Pub. L. 95-217, § 10(a), substituted "$500,000" for "$250,000".

Subsec. (b)(4). Pub. L. 95-217, § 10(b), added subsec. (b)(4).

§ 1262. Definitions and authorizations

[*See main edition for text of (a) and (b)*]

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September

30, 1980, to carry out sections 1259 through 1262 of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 4(d), 91 Stat. 1566.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-217 substituted "June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September 30, 1980," for "June 30, 1975,".

§ 1263. Alaska village demonstration projects

[*See main edition for text of* (a) *to* (c)]

(d) Authorization of appropriations

There is authorized to be appropriated not to exceed $2,000,000 to carry out this section. In addition, there is authorized to be appropriated to carry out this section not to exceed $200,000 for the fiscal year ending September 30, 1978, and $220,000 for the fiscal year ending September 30, 1979.

(e) Study to develop comprehensive program for achieving sanitation services; report to Congress

The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92-203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. This study shall be coordinated with the programs and projects authorized by sections 1254(q) and 1255(e)(2) of this title. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31, 1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

(f) Technical, financial, and management assistance

The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) of this section are implemented.

(g) Definitions

For the purpose of this section, the term "village" shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term "sanitation services" shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 11, 91 Stat. 1568.)

REFERENCES IN TEXT

Public Law 92-203, referred to in subsec. (e), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, known as the Alaska Native Claims Settlement Act, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-217, § 11(b), authorized additional appropriations of not to exceed $200,000 for the fiscal year ending Sept. 30, 1978, and $220,000, for the fiscal year ending Sept. 30, 1979, to carry out this section.

Subsecs. (e) to (g). Pub. L. 95-217, § 11(a), added subsecs. (e), (f), and (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1376 of this title.

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1255, 1311, 1371 of this title; title 42 section 5153.

§ 1281. Congressional declaration of purpose

[*See main edition for text of* (a) *to* (f)]

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

[*See main edition for text of* (2) *to* (4)]

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account subsection (d) of this section and taking into account and allowing to the extent practicable the more efficient use of energy and resources.

(6) The Administrator shall not make grants from funds authorized for any fiscal year begin-

ning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.

(h) A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on, December 27, 1977, where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 1284 of this title and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than the cost of providing a system of collection and central treatment of such wastes.

In the case of any treatment works assisted under this subsection serving commercial users, any such agreement under paragraph (2) shall make provision for the payment to the United States by the commercial users of the treatment works of that portion of the cost of construction of such works which is applicable to the treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.

(i) The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.

(j) The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 12-16, 91 Stat. 1569, 1570.)

AMENDMENTS

1977—Subsec. (g)(5). Pub. L. 95-217, § 12, added subsec. (g)(5).

Subsec. (g)(6). Pub. L. 95-217, § 13, added subsec. (g)(6).

Subsec. (h). Pub. L. 95-217, § 14, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 15, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 16, added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1281a, 1282, 1283, 1284, 1285, 1288, 1291, 1292, 1297, 1311, 1314, 1371, 1375 of this title.

§ 1281a. Total treatment system funding

Notwithstanding any other provision of law, in any case where the Administrator of the Environmental Protection Agency finds that the total of all grants made under section 1281 of this title for the same treatment works exceeds the actual construction costs for such treatment works (as defined in this chapter) such excess amount shall be a grant of the Federal share (as defined in this chapter) of the cost of construction of a sewage collection system if—

(1) such sewage collection system was constructed as part of the same total treatment system as the treatment works for which such grants under section 1281 of this title were approved, and

(2) an application for assistance for the construction of such sewage collection system was filed in accordance with section 3102 of title 42 before all such grants under section 1281 of this title were made and such grant under section 3102 of title 42 could not be approved due to lack of funding under such section 3102 of title 42.

The total of all grants for sewage collection systems made under this section shall not exceed $2,800,000.

(Pub. L. 95-217, § 78, Dec. 27, 1977, 91 Stat. 1611.)

CODIFICATION

Section was enacted as part of the Clean Water Act of 1977, Pub. L. 95-217, and not as part of the Federal Water Pollution Control Act, June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 816, which comprises this chapter.

§ 1282. Federal share

(a)(1) The amount of any grant for treatment works made under this chapter from funds authorized for any fiscal year beginning after June 30, 1971, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator). Any grant (other than for reimbursement) made prior to October 18, 1972, from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

(2) The amount of any grant made after September 30, 1978, and before October 1, 1981, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 1281(g)(5) of this title shall be 85 per centum of the cost of construc-

tion thereof. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures.

(4) For the purposes of this section, the term "eligible treatment works" means those treatment works in each State which meet the requirements of section 1281(g)(5) of this title and which can be fully funded from funds available for such purpose in such State in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Such term does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.

[*See main edition for text of* (*b*)]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 17, 91 Stat. 1571.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 designated existing provisions as par. (1) and added pars. (2), (3), and (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1285 of this title.

§ 1283. Plans, specifications, estimates, and payments

(a) Submission; contractual nature of approval by Administrator

Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 1281(g)(1) of this title from funds allotted to the State under section 1285 of this title and which otherwise meets the requirements of this chapter. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project. In the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. If any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost of the treatment works does not exceed $3,000,000.

[*See main edition for text of* (*b*) *to* (*d*)]

(e) Technical and legal assistance in administration and enforcement of contracts; intervention in civil actions

At the request of a grantee under this subchapter, the Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract in connection with treatment works assisted under this subchapter, and to intervene in any civil action involving the enforcement of such a contract.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 18, 19, 91 Stat. 1571, 1572.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 18, provided that, in the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works, and that, if any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant where the estimated total cost of the treatment works does not exceed $3,000,000.

Subsec. (e). Pub. L. 95-217, § 19, added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1284, 1285, 1286, 1311 of this title.

§ 1284. Limitations and conditions

(a) Before approving grants for any project for any treatment works under section 1281(g)(1) of this title the Administrator shall determine—

[*See main edition for text of* (*1*) *and* (*2*)]

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 1313(e) of this title, except that any priority list developed pursuant to section 1313(e)(3)(H) of this title may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgat-

ed under section 1314(d)(3) of this title and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 1283(a) of this title which utilizes processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title.

[*See main edition for text of (4)*]

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required, after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under this subchapter shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 1288 of this title, or an applicable municipal master plan of development. For the purpose of this paragraph, section 1288 of this title, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

[*See main edition for text of (6)*]

(b)(1) Notwithstanding any other provision of this subchapter, the Administrator shall not approve any grant for any treatment works under section 1281(g)(1) of this title after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share (except as otherwise provided in this paragraph) of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction (which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made); and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of December 27, 1977, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate.

[*See main edition for text of (2)*]

(3) The grantee shall retain an amount of the revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this subchapter as determined by the Administrator, equal to (A) the amount of the non-Federal cost of such project paid by the grantee plus (B) the amount, determined in accordance with regulations promulgated by the Administrator, necessary for the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and future expansion and reconstruction of the project, except that such retained amount shall not exceed 50 per centum of such revenues from such project. All revenues from such project not retained by the grantee shall be deposited by the Administrator in the Treasury as miscellaneous receipts. That portion of the revenues retained by the grantee attributable to clause (B) of the first sentence of this paragraph, together with any interest thereon shall be used solely for the purposes of future expansion and reconstruction of the project. Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to December 27, 1977, may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water

consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.

[*See main edition for text of* (4)]

(5) A system of charges which meets the requirement of clause (A) of paragraph (1) of this subsection may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (A) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (B) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the cost of the waste treatment services.

(6) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 20-24, 91 Stat. 1572, 1573.)

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-217, § 20, provided that any priority list developed pursuant to section 1313(e)(3)(H) of this title may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 1283(a) of this title which utilizes processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title.

Subsec. (a)(5). Pub. L. 95-217, § 21, provided that efforts to reduce total flow of sewage and unnecessary water consumption be taken into account, in accordance with regulations promulgated by the Administrator, that the amount of reserve capacity eligible for a grant under this subchapter be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 1288 of this title, or an applicable municipal master plan of development, and that, for the purpose of this paragraph, section 1288 of this title, and any such plan, projected population be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

Subsec. (b)(1). Pub. L. 95-217, §§ 22(a)(1), (2), 24(c), added "(except as otherwise provided in this paragraph)" following "proportionate share" in cl. (A) and "(which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made)" in cl. (B) and, at the end of existing provisions, added sentences under which a dedicated ad valorem tax system is to be deemed the user charge system meeting the requirements of cl. (A) for the residential user class and such small non-residential user classes as defined by the Administrator in cases where an applicant, as of Dec. 27, 1977, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user.

Subsec. (b)(3). Pub. L. 95-217, §§ 23, 24(a), substituted "necessary for the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and future expansion" for "necessary for future expansion" in cl. (B) and, at the end of existing provisions, added sentence under which, subject to the approval of the Administrator, the following: "Not a grantee that received a grant prior to Dec. 27, 1977, may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.

Subsec. (b)(5). Pub. L. 95-217, § 22(b), added subsec. (b)(5).

Subsec. (b)(6). Pub. L. 95-217, § 24(b), added subsec. (b)(6).

COST RECOVERY; SUSPENSION OF GRANT REQUIREMENTS THAT INDUSTRIAL USERS MAKE PAYMENTS

Section 75 of Pub. L. 95-217 provided that:

"(a) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the 'Administrator') shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction. Such study shall include, but not be limited to, an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment. No later than the last day of the twelfth month which begins after the date of enactment of this section [Dec. 27, 1977], the Administrator shall submit a report to the Congress setting forth the results of such study.

"(b) During the period beginning on the date of enactment of this section [Dec. 27, 1977] and ending on the last day of the eighteenth month which begins after the date of enactment of this section [Dec. 27, 1977] (both dates inclusive), no officer or employee of the Federal Government shall enforce, or require any recipient of a grant under section 201(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1284) [section 1284(g)(1) of this title] to enforce, any provision in an application for a grant or in a grant agreement under such section which requires any payments by industrial users pursuant to section 204(b)(1)(B) of such Act [subsec. (b)(1)(B) of this section].

"(c) For purposes of this section, the terms 'industrial user' and 'treatment works' have the same meaning given such terms in the Federal Water Pollution Control Act [this chapter].

"(d) Any payment by an industrial user which, but for subsection (b) of this section, was due and payable during the eighteen-month period described in such subsection shall after such eighteen-month period be paid in accordance with the applicable provisions of the Federal Water Pollution Control Act [this chapter] in equal annual installments prorated over the remaining useful life of the treatment works with respect to which they are required to be paid."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1259, 1281, 1285, 1293, 1311, 1342 of this title.

§ 1285. Allotment of grant funds

(a) Funds for fiscal years during period June 30, 1972, and September 30, 1977; determination of amount

Sums authorized to be appropriated pursuant to section 1287 of this title for each fiscal year beginning after June 30, 1972, and before September 30, 1977, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after October 18, 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92-50. For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print. Allotments for fiscal years which begin after the fiscal year ending June 30, 1975, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 1375(b) of this title and only after such revised cost estimate shall have been approved by law specifically enacted after October 18, 1972.

(b) Availability and use of funds allotted for fiscal years during period June 30, 1972, and September 30, 1977; reallotment

[*See main edition for text of* (*b*)]

(c) Funds for fiscal years during period October 1, 1977, and September 30, 1981; determination of amount

Sums authorized to be appropriated pursuant to section 1287 of this title for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after December 27, 1977. Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

(d) Availability and use of funds; reallotment

Sums allotted to the States for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1978 and for fiscal years thereafter shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this subchapter during any fiscal year.

(e) Minimum allotment; additional appropriations; ratio of amount available

For the fiscal years 1978, 1979, 1980, and 1981, no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, and 1981. If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

(f) Availability of funds allotted between January 1, 1975 and March 1, 1975

Notwithstanding any other provision of this section, sums made available between January 1, 1975, and March 1, 1975, by the Administrator for obligation shall be available for obligation until September 30, 1978.

(g) Reservation of funds; state management assistance

(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the allotment made to each State under this section on or after October 1, 1977, or $400,000

whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 1281, 1283, 1284, and 1292 of this title the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 1288(b)(4) of this title, administering a statewide waste treatment management planning program under section 1288(b)(4) of this title, and managing waste treatment construction grants for small communities.

(h) Alternate systems for small communities

The Administrator shall set aside from funds authorized for each fiscal year beginning on or after October 1, 1978, four per centum of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than four per centum of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less, or for the highly dispersed sections of larger municipalities, as defined by the Administrator.

(i) Increase in Federal share for construction; projects utilizing innovative processes and techniques

Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 1282(a)(2) of this title. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 1282(a)(2) of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 25, 26(a), 27, 28, 91 Stat. 1574, 1575.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 25(a), substituted "each fiscal year beginning after June 30, 1972, and before September 30, 1977" for "each fiscal year beginning after June 30, 1972".

Subsecs. (c) to (f). Pub. L. 95-217, § 25(b), added subsecs. (c) to (f).

Subsec. (g). Pub. L. 95-217, § 26(a), added subsec. (g).

Subsec. (h). Pub. L. 95-217, § 27, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 28, added subsec. (i).

§ 1286. Reimbursement and advanced construction

(a) Publicly owned treatment works construction initiated after June 30, 1966, but before July 1, 1973; reimbursement formula

Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1973, which was approved by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of section 1158 of this title in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 1158 of this title for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 1158(f) of this title as in effect immediately prior to October 18, 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

[*See main edition for text of (b) to (f)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 29(a), 91 Stat. 1576.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 substituted "July 1, 1973" for "July 1, 1972".

APPLICATION FOR ASSISTANCE FOR PUBLICLY OWNED TREATMENT WORKS WHERE GRANTS WERE MADE BEFORE JULY 2, 1972, AND ON WHICH CONSTRUCTION WAS INITIATED BEFORE JULY 1, 1973

Section 29(b) of Pub. L. 95-217 provided that: "Notwithstanding section 206(c) of the Federal Water Pollution Control Act [subsec. (c) of this section] and section 2 of Public Law 93-207 [set out as a note under this section], in the case of publicly owned treatment works for which a grant was made under the Federal Water Pollution Control Act [this chapter], as amended by the Water Pollution Control Act amendments of 1956 (Public Law 660, 84th Congress) [act July 9, 1956, ch. 518, 70 Stat. 498] before July 1, 1972, and on which construction was initiated before July 1, 1973, applications for assistance under such section 206 shall be filed not later than the ninetieth day after the date of enactment of the Clean Water Act of 1977 [Dec. 27, 1977]."

§ 1287. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter, other than sections 1286(e), 1288 and 1289 of this title, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000, and subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 30, 91 Stat. 1576.)

AMENDMENTS

1977—Pub. L. 95-217 added "and subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year".

§ 1288. Areawide waste treatment management

[*See main edition for text of* (a)]

(b) Planning process

(1)(A) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 1281 of this title. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6) of this section, the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works, and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation;

[*See main edition for text of* (B) *to* (E)]

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including return flows from irrigated agriculture, and their cumulative effects, runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

[*See main edition for text of* (G) *to* (K); (3)]

(4)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 1313 of this title so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to a class or category of activity throughout such State.

(B) Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill material into the navigable waters shall include the following:

(i) A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources.

(ii) A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 1344 of this title conducted pursuant to this chapter.

(iii) A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 1344(b)(1) of this title, and sections 1317 and 1343 of this title.

(iv) A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the best management practice;

(II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice.

(v) A process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

(C) If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under section 1344 of this title, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

(D)(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.

[*See main edition for text of* (c) *to* (e)]

(f) Grants

[*See main edition for text of* (1)]

(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980.

[*See main edition for text of* (g) *and* (h)]

(i) State best management practices program

(1) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall, upon request of the Governor of a State, and without reimbursement, provide technical assistance to such State in developing a statewide program for submission to the Administrator under subsection (b)(4)(B) of this section and in implementing such program after its approval.

(2) There is authorized to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory of the United States, by December 31, 1981, and to provide information from such Inventory to States as it becomes available to assist such States in the development and operation of programs under this chapter.

(j) Agricultural cost sharing

(1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts, subject to such amounts as are provided in advance by appropriation acts, of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

(i) to effectuate a plan approved by a soil conservation district, where one exists, under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district, where one exists, and the Administrator, determines

that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

(5) The Secretary shall, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary, and for payment by the United States of such portion of the costs incurred in the administration of the program as the Secretary may deem appropriate.

(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c)(1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas. Within such areas the local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine the priority of assistance among individual land owners and operators to assure that the most critical water quality problems are addressed.

(7) The Secretary, in consultation with the Administrator and subject to section 1314(k) of this title, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566 [16 U.S.C. 1001 et seq.].

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 4(e), 31, 32, 33(a), 34, 35, 91 Stat. 1566, 1576-1579.)

REFERENCES IN TEXT

Public Law 83-566, referred to in subsec. (j)(8), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, known as the Watershed Protection and Flood Prevention Act, which is classified generally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-217, § 31(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(2)(A). Pub. L. 95-217, § 32, added ", and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation" following "development of such treatment works".

Subsec. (b)(2)(F). Pub. L. 95-217, § 33(a), substituted "sources of pollution, including return flows from irrigated agriculture, and their cumulative effects," for "sources of pollution, including".

Subsec. (b)(4). Pub. L. 95-217, § 34(a), designated existing provisions as subpar. (A), substituted "to the Administrator for approval for application to a class or category of activity throughout such State" for "to the Administrator for application to all regions within such State" in subpar. (A) as so designated, and added subpars. (B) to (D).

Subsec. (f)(2). Pub. L. 95-217, § 31(b), substituted "For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period" for "The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year" and added "In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year."

Subsec. (f)(3). Pub. L. 95-217, §§ 4(e), 31(c), substituted "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980" for "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975" and added "subject to such amounts as are provided in appropriation Acts" following "contractual obligation of the United States for the payment of its contribution to such proposal".

Subsec. (i). Pub. L. 95-217, § 34(b), added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 35, added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1284, 1285, 1287, 1289, 1313, 1314, 1344, 1362, 1375, 1376 of this title; title 42 section 6946.

§ 1291. Sewage collection systems

(a) Existing and new systems

No grant shall be made for a sewage collection system under this subchapter unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 1281 of this title.

(b) Use of population density as test

If the Administrator uses population density as a test for determining the eligibility of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

(c) Pollutant discharges from separate storm sewer systems

No grant shall be made under this subchapter from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, for treatment works for control of pollutant discharges from separate storm sewer systems.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 36, 91 Stat. 1581.)

AMENDMENTS

1977—Pub. L. 95-217 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 1292. Definitions

As used in this subchapter—

[*See main edition for text of (1)*]

(2)(A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of this title, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment.

[*See main edition for text of (B) and (C), (3)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 37, 91 Stat. 1581.)

AMENDMENTS

1977—Par. (2)(A). Pub. L. 95-217 added "(including land used for the storage of treated wastewater in land treatment systems prior to land application)" following "integral part of the treatment process".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1285, 1317, 1342, 1345, 1375.

§ 1293. Loan guarantees

CODIFICATION

The section credits should read: (June 30, 1948, ch. 758, title II, § 213, as added Oct. 19, 1976, Pub. L. 94-558, 90 Stat. 2639.)

§ 1294. Public information and education on recycling and reuse of wastewater, use of land treatment, and reduction of wastewater volume

The Administrator shall develop and operate within one year of December 27, 1977, a continuing program of public information and education on recycling and reuse of wastewater (including sludge), the use of land treatment, and methods for the reduction of wastewater volume.

(June 30, 1948, ch. 758, title II, § 214, as added Dec. 27, 1977, Pub. L. 95-217, § 38, 91 Stat. 1581.)

§ 1295. Requirements for American materials

Notwithstanding any other provision of law, no grant for which application is made after February 1, 1978, shall be made under this subchapter for any treatment works unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems relevant, including the available resources of the agency, it to be inconsistent with the public interest (including multilateral government procurement agreements) or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(June 30, 1948, ch. 758, title II, § 215, as added Dec. 27, 1977, Pub. L. 95-217, § 39, 91 Stat. 1581.)

§ 1296. Determination of priority of projects

Notwithstanding any other provision of this chapter, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this chapter, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 per centum of funds allocated to a State in any fiscal year under this subchapter for construction of publicly owned treatment works in such State shall be obligated for those types of projects referred to in clauses (D), (E), (F), and (G) of this section, if such projects are on such State's priority list for that year and are otherwise eligible for funding in that fiscal year.

(June 30, 1948, ch. 758, title II, § 216, as added Dec. 27, 1977, Pub. L. 95-217, § 40, 91 Stat. 1582.)

§ 1297. Guidelines for cost-effectiveness analysis

Any guidelines for cost-effectiveness analysis published by the Administrator under this subchapter shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of this chapter and sections 1281(b), 1281(d), 1281(g)(2)(A), and 1311(b)(2)(B) of this title.

(June 30, 1948, ch. 758, title II, § 217, as added Dec. 27, 1977, Pub. L. 95-217, § 41, 91 Stat. 1582.)

SUBCHAPTER III—STANDARDS AND ENFORCEMENT

§ 1311. Effluent limitations

[*See main edition for text of* (a)]

(b) Timetable for achievement of objectives

In order to carry out the objective of this chapter there shall be achieved—

[*See main edition for text of* (1)]

(2)(A) for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 1325 of this title), that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 1317 of this title;

(B) not later than July 1, 1983, compliance by all publicly owned treatment works with the requirements set forth in section 1281(g)(2)(A) of this title;

(C) not later than July 1, 1984, with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph;

(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 1317 of this title which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitations in accordance

with subparagraph (A) of this paragraph not later than three years after the date such limitations are established;

(E) not later than July 1, 1984, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which in the case of pollutants identified pursuant to section 1314(a)(4) of this title shall require application of the best conventional pollutant control technology as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(4) of this title; and

(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than 3 years after the date such limitations are established, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.

[*See main edition for text of* (c) *to* (f)]

(g) Waiver for certain pollutants

(1) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge of any pollutant (other than pollutants identified pursuant to section 1314(a)(4) of this title, toxic pollutants subject to section 1317(a) of this title, and the thermal component of discharges) from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—

(A) such modified requirements will result at a minimum in compliance with the requirements of subsection (b)(1) (A) or (C) of this section, whichever is applicable;

(B) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(C) such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

(2) If an owner or operator of a point source applies for a modification under this subsection with respect to the discharge of any pollutant, such owner or operator shall be eligible to apply for modification under subsection (c) of this section with respect to such pollutant only during the same time period as he is eligible to apply for a modification under this subsection.

(h) Modification of secondary treatment requirements

The Administrator, with the concurrence of the State, may issue a permit under section 1342 of this title which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant in an existing discharge from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 1314(a)(6) of this title;

(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(8) any funds available to the owner of such treatment works under subchapter II of this chapter will be used to achieve the degree of effluent reduction required by section 1281(b) and (g)(2)(A) of this title or to carry out the requirements of this subsection.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 1251(a)(2) of this title.

(i) Municipal time extensions

(1) Where construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (A) construction cannot be completed within the time required in such subsection, or (B) the United States has failed to make financial assistance under this chapter available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a

permit pursuant to section 1342 of this title or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after December 27, 1977. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, 1983, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 1281 of this title, section 1317 of this title, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this chapter.

(2)(A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section and—

(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works; or

(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

(iii) if either an application made before July 1, 1977, for a construction grant under this chapter for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works,

and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 1342 of this title to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after December 27, 1977, or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water-conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of this chapter.

(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1983; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1983, and will meet the requirements of subsections (b)(1)(B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 1284 of this title, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires that point source to meet all requirements under section 1317(a) and (b) of this title during the period of such time modification.

(j) Modification procedures

(1) Any application filed under this section for a modification of the provisions of—

(A) subsection (b)(1)(B) of this section under subsection (h) of this section shall be filed not later than 270 days after December 27, 1977;

(B) subsection (b)(2)(A) of this section as it applies to pollutants identified in subsection (b)(2)(F) of this section shall be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 1314 of this title or not later than 270 days after December 27, 1977, whichever is later.

(2) Any application for a modification filed under subsection (g) of this section shall not operate to stay any requirement under this chapter, unless in the judgment of the Administrator such a stay or the modification sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities, and that there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (g) of this section, the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.

(k) Innovative technology

In the case of any facility subject to a permit under section 1342 of this title which proposes to comply with the requirements of subsection (b)(2)(A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 1342 of this title, in consultation with the Administrator) may establish a date for compliance under subsection (b)(2)(A) of this section no later than July 1, 1987, if it is also determined that such innovative system has the potential for industrywide application.

(*l*) Toxic pollutants

The Administrator may not modify any requirement of this section as it applies to any specific pollutant which is on the toxic pollutant list under section 1317(a)(1) of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 42-47, 53(c), 91 Stat. 1582-1586, 1590.)

AMENDMENTS

1977—Subsec. (b)(2)(A). Pub. L. 95-217, § 42(b), substituted "for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph" for "not later than July 1, 1983".

Subsec. (b)(2)(C) to (F). Pub. L. 95-217, § 42(a), added subsec. (b)(2)(C) to (F).

Subsec. (g). Pub. L. 95-217, § 43, added subsec. (g).

Subsec. (h). Pub. L. 95-217, § 44, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 45, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 46, added subsec. (j).

Subsec. (k). Pub. L. 95-217, § 47, added subsec. (k).

Subsec. (*l*). Pub. L. 95-217, § 53(c), added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1292, 1297, 1312, 1313, 1314, 1317, 1319, 1325, 1326, 1341, 1342, 1344, 1364, 1365, 1367, 1369 of this title.

§ 1312. Water quality related effluent limitations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292, 1311, 1313, 1314, 1319, 1341, 1342, 1365, 1367, 1369 of this title.

§ 1313. Water quality standards and implementation plans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1284, 1288, 1314, 1326, 1341, 1375 of this title.

§ 1314. Information and guidelines

(a) Criteria development and publication

[*See main edition for text of (1) to (3)*]

(4) The Administrator shall, within 90 days after December 27, 1977, and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

(5)(A) The Administrator, to the extent practicable before consideration of any request under section 1311(g) of this title and within six months after December 27, 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(B) The Administrator, to the extent practicable before consideration of any application under section 1311(h) of this title and within six months after December 27, 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(6) The Administrator shall, within three months after December 27, 1977, and annually thereafter, for purposes of section 1311(h) of this title publish and revise as appropriate information identifying each water quality standard in effect under this chapter or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.

(b) Effluent limitation guidelines

For the purpose of adopting or revising effluent limitations under this chapter the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of October 18, 1972, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

[*See main edition for text of (1)*]

(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 1311 of this title to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants; and

(4)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best conventional pollutant control technology (including measures and practices) for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 1311(b)(2)(E) of this title to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best conventional pollutant control technology (including measures and practices) shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate.

[*See main edition for text of* (c)]

(d) Secondary treatment information; alternative waste treatment management techniques and systems

[*See main edition for text of* (1) *and* (2)]

(3) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall promulgate within one hundred and eighty days after December 27, 1977, guidelines for identifying and evaluating innovative and alternative wastewater treatment processes and techniques referred to in section 1281(g)(5) of this title.

(e) Best management practices for industry

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b) and (c) of this section for a class or category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 1317(a)(1) or 1321 of this title, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and may contribute significant amounts of such pollutants to navigable waters. Any applicable controls established under this subsection shall be included as a requirement for the purposes of section 1311, 1312, 1316, 1317, or 1343 of this title, as the case may be, in any permit issued to a point source pursuant to section 1342 of this title.

(f) Identification and evaluation of nonpoint sources of pollution; processes, procedures, and methods to control pollution

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 1288 of this title, within one year after October 18, 1972 (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

(g) Guidelines for pretreatment of pollutants

(1) For the purpose of assisting States in carrying out programs under section 1342 of this title, the Administrator shall publish, within one hundred and twenty days after October 18, 1972, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

(h) Test procedures guidelines

The Administrator shall, within one hundred and eighty days from October 18, 1972, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 1341 of this title or permit application pursuant to section 1342 of this title.

(i) Guidelines for monitoring, reporting, enforcement, funding, personnel, and manpower

The Administrator shall (1) within sixty days after October 18, 1972, promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point-sources of discharge subject to any State program under section 1342 of this title, and (2) within sixty days from October 18, 1972, promulgate guidelines establishing the minimum procedural and other elements of any State program under section 1342 of this title, which shall include:

(A) monitoring requirements;

(B) reporting requirements (including procedures to make information available to the public);

(C) enforcement provisions; and

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

(j) Restoration and enhancement of publicly owned fresh water lakes

The Administrator shall issue information biennially on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.

(k) Agreements with Secretaries of Agriculture, Army, and Interior to provide maximum utilization of programs to achieve and maintain water quality; transfer of funds; authorization of appropriations

(1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 1288 of this title.

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal years 1979 through 1983.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 48-51, 62(b), 91 Stat. 1587, 1588, 1598.)

CODIFICATION

Section 50 of Pub. L. 95-217 provided in part that, upon the enactment of subsec. (e) of this section by Pub. L. 95-217 and the concurrent redesignation of former subsecs. (e) to (j) of this section as (f) to (k), respectively, all references to former subsecs. (e) to (j) be changed to (f) to (k), respectively.

AMENDMENTS

1977—Subsec. (a)(4) to (6). Pub. L. 95-217, § 48(a), added subsec. (a)(4) to (6).

Subsec. (b)(4). Pub. L. 95-217, § 48(b), added subsec. (b)(4).

Subsec. (d)(3). Pub. L. 95-217, § 49, added subsec. (d)(3).

Subsec. (e). Pub. L. 95-217, § 50, added subsec. (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (i). Pub. L. 95-217, § 50, redesignated former subsecs. (e) to (h) as (f) to (i), respectively. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 95-217, §§ 50, 62(b), redesignated former subsec. (i) as (j) and, in subsec. (j) as so redesignated, substituted "shall issue information biennially on methods" for "shall, within 270 days after October 18, 1972 (and from time to time thereafter), issue such information on methods". Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 95-217, §§ 50, 51, redesignated former subsec. (j) as (k) and, in subsec. (k) as so redesignated, substituted "The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide the maximum utilization of other Federal laws and programs" for "The Administrator shall, within six months from October 18, 1972, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs author-

ized under other Federal law to be carried out by such Secretaries" in par. (1), made conforming amendments in par. (2), and, in par. (3), authorized the year for the fiscal years 1979 through 1983.

REVIEW OF EFFLUENT GUIDELINES PROMULGATED PRIOR TO DECEMBER 27, 1977

Section 73 of Pub. L. 95-217 provided that: "Within 90 days after the date of enactment of this Act [Dec. 27, 1977], the Administrator shall review every effluent guideline promulgated prior to the date of enactment of this Act which is final or interim final (other than those applicable to industrial categories listed in table 2 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives) and which applies to those pollutants identified pursuant to section 304(a)(4) of the Federal Water Pollution Control Act [subsec. (a)(4) of this section]. The Administrator shall review every guideline applicable to industrial categories listed in such table 2 on or before July 1, 1980. Upon completion of each such review the Administrator is authorized to make such adjustments in any such guidelines as may be necessary to carry out section 304(b)(4) of such Act [subsec. (b)(4) of this section]. The Administrator shall publish the results of each such review, including, with respect to each such guideline, the determination to adjust or not to adjust such guideline. Any such determination by the Administrator shall be final except that if, on judicial review in accordance with section 509 of such Act [section 1369 of this title], it is determined that the Administrator either did not comply with the requirements of this section or the determination of the Administrator was based on arbitrary and capricious action in applying section 304(b)(4) of such Act [subsec. (b)(4) of this section] to such guideline, the Administrator shall make a further review and redetermination of any such guideline."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1281, 1284, 1288, 1311, 1313, 1315, 1317, 1322, 1323, 1342, 1344, 1369, 1376 of this title.

§ 1315. State reports on water quality; transmittal to Congress

[*See main edition for text of* (*a*)]

(b)(1) Each State shall prepare and submit to the Administrator by April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter, a report which shall include—

[*See main edition for text of* (*A*) *to* (*E*)]

(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before October 1, 1975, and October 1, 1976, and biennially thereafter.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 52, 91 Stat. 1589.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-217, § 52(1), substituted "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter" for "January 1, 1975, and shall bring up to date each year thereafter" in the provisions preceding subpar. (A).

Subsec. (b)(2). Pub. L. 95-217, § 52(2), substituted "on or before October 1, 1975, and October 1, 1976, and biennially thereafter" for "on or before October 1, 1975, and annually thereafter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1313, 1314, 1317, 1319, 1323, 1326, 1341, 1342, 1364, 1365, 1367, 1369, 1371, 1374 of this title.

§ 1317. Toxic and pretreatment effluent standards

(a) Toxic pollutant list; revision; hearing; promulgation of standards; effective date; consultation

(1) On and after December 27, 1977, the list of toxic pollutants or combination of pollutants subject to this chapter shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after December 27, 1977, that list. From time to time thereafter, the Administrator may revise such list and the Administrator is authorized to add to or remove from such list any pollutant. The Administrator in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms. A determination of the Administrator under this paragraph shall be final except that if, on judicial review, such determination was based on arbitrary and capricious action of the Administrator, the Administrator shall make a redetermination.

(2) Each toxic pollutant listed in accordance with paragraph (1) of this subsection shall be subject to effluent limitations resulting from the application of the best available technology economically achievable for the applicable category or class of point sources established in accordance with sections 1311(b)(2)(A) and 1314(b)(2) of this title. The Administrator, in his discretion, may publish in the Federal Register a proposed effluent standard (which may include a prohibition) establishing requirements for a toxic pollutant which, if an effluent limitation is applicable to a class or category of point sources, shall be applicable to such category or class only if such standard imposes more stringent requirements. Such published effluent standard (or prohibition) shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under other regulatory authority. The Administrator shall allow a period of not less than sixty days following publication of any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standard. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hearing shall provide an opportunity for oral and written presenta-

tions, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standard or prohibition, the Administrator shall promulgate such standard (or prohibition) with such modification as the Administrator finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standard (or prohibition). Such standard (or prohibition) shall be final except that if, on judicial review, such standard was not based on substantial evidence, the Administrator shall promulgate a revised standard. Effluent limitations shall be established in accordance with sections 1311(b)(2)(A) and 1314(b)(2) of this title for every toxic pollutant referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives as soon as practicable after December 27, 1977, but no later than July 1, 1980. Such effluent limitations or effluent standards (or prohibitions) shall be established for every other toxic pollutant listed under paragraph (1) of this subsection as soon as practicable after it is so listed.

(3) Each such effluent standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

[*See main edition for text of (4) and (5)*]

(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case, more than one year from the date of such promulgation. If the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.

[*See main edition for text of (7)*]

(b) Pretreatment standards; hearing; promulgation; compliance period; revision; application to State and local laws

(1) The Administrator shall, within one hundred and eighty days after October 18, 1972, and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 1292 of this title) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 1292 of this title) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works. If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 1345 of this title, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works.

[*See main edition for text of (2) to (4); (c) and (d)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 53 (a), (b), 54(a), 91 Stat. 1589-1591.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-217, § 53(a), substituted "On and after December 27, 1977, the list of toxic pollutants or combination of pollutants subject to this chapter shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after December 27, 1977, that list" for "The Administrator shall, within ninety days after October 18, 1972, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section" and added provision for the revision of the list and for the finality of the Administrator's determination except when that determination is arbitrary and capricious.

Subsec. (a)(2). Pub. L. 95-217, § 53(a), expanded provisions covering effluent limitations and the establishment of effluent standards (or prohibitions), introduced provisions relating to the application of the best available technology economically achievable for the applicable category or class of point sources established in accordance with sections 1311(b)(2)(A) and 1314(b)(2) of this title, added provision that published effluent standards take into account the extent to which effective control is being or may be achieved under other regulatory authority, added provision for a sixty day minimum period following publication of proposed effluent standards for written comment, substituted two hundred and seventy days for six months as the period following publication of proposed standards during which period standards (or prohibitions) must be promulgated, and added provision for the finality of effluent limitations (or prohibitions) except if, on judicial review, the standard was not based on substantial evidence.

Subsec. (a)(3). Pub. L. 95-217, § 53(a), struck out provision for the immediate promulgation of revised effluent standards (or prohibitions) for pollutants or combinations of pollutants if, after public hearings, the Administrator found that a modification of such proposed standards (or prohibitions) was justified. See subsec. (a)(2) of this section.

Subsec. (a)(6). Pub. L. 95-217, § 53(b), added provision that if the Administrator determines that compliance with effluent standards (or prohibitions) within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for that category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.

Subsec. (b)(1). Pub. L. 95-217, § 54(a), added provision that if, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by the works removes all or any part of the toxic pollutant and the discharge from the works does not violate that effluent limitation or standard which would be applicable to the toxic pollutant if it were discharged by the source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by the works in accordance with section 1345 of this title, then the pretreatment requirements for the sources actually discharging the toxic pollutant into the publicly owned treatment works may be revised by the owner or operator of the works to reflect the removal of the toxic pollutant by the works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1288, 1311, 1313, 1314, 1319, 1323, 1341, 1342, 1344, 1364, 1365, 1367, 1369, 1374 of this title.

§ 1318. Records and reports; inspections

(a) Maintenance; monitoring equipment; entry; access to information

Whenever required to carry out the objective of this chapter, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this chapter; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 1315, 1321, 1342, 1344 (relating to State permit programs), and 1364 of this title—

[*See main edition for text of (A) and (B); (b) and (c)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 67(c)(1), 91 Stat. 1606.)

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-217 added "1344 (relating to State permit programs)," following "sections 1315, 1321, 1342," in the provisions preceding subpar. (A).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1319, 1342, 1344 of this title.

§ 1319. Enforcement

(a) State enforcement; compliance orders

(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of this title in a permit issued by a State under an approved permit program under section 1342 or 1344 of this title he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall enforce any permit condition or limitation with respect to any person—

[*See main edition for text of (A) and (B)*]

(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of this title, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by him or by a State or in a permit issued under section 1344 of this title by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 1318 of this title shall not take effect until the person to whom it is issued has had an opportu-

nity to confer with the Administrator concerning the alleged violation.

(5)(A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(B) The Administrator may, if he determines (i) that any person who is a violator of, or any person who is otherwise not in compliance with, the time requirements under this chapter or in any permit issued under this chapter, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979; (ii) that any extension under this provision will not result in the imposition of any additional controls on any other point or nonpoint source; (iii) that an application for a permit under section 1342 of this title was filed for such person prior to December 31, 1974; and (iv) that the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 1311(b)(1)(A) of this title to a date which will achieve compliance at the earliest time possible but not later than April 1, 1979.

(6) Whenever, on the basis of information available to him, the Administrator finds (A) that any person is in violation of section 1311(b)(1)(A) or (C) of this title, (B) that such person cannot meet the requirements for a time extension under section 1311(i)(2) of this title, and (C) that the most expeditious and appropriate means of compliance with this chapter by such person is to discharge into a publicly owned treatment works, then, upon request of such person, the Administrator may issue an order requiring such person to comply with this chapter at the earliest date practicable, but not later than July 1, 1983, by discharging into a publicly owned treatment works if such works concur with such order. Such order shall include a schedule of compliance.

[*See main edition for text of* (b)]

(c) Criminal penalties

(1) Any person who willfully or negligently violates section 1311, 1312, 1316, 1317, or 1318 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator or by a State or in a permit issued under section 1344 of this title by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

[*See main edition for text of* (2) *and* (3)]

(d) Civil penalties

Any person who violates section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator, or by a State, or in a permit issued under section 1344 of this title by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

[*See main edition for text of* (e)]

(f) Wrongful introduction of pollutants into treatments works

Whenever, on the basis of any information available to him, the Administrator finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 1317 of this title, the Administrator may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to, a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with this chapter. Notice of commencement of any such action shall be given to the State. Nothing in this subsection shall be construed to limit or prohibit any other authority the Administrator may have under this chapter.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 54(b), 55, 56, 67(c)(2), 91 Stat. 1591, 1592, 1606.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-217, §§ 55(a), 67(c)(2)(A), substituted "1318, 1328, or 1345 of this title" for "or 1318 of this title" and "1342 or 1344 of this title" for "1342 of this title".

Subsec. (a)(2). Pub. L. 95-217, § 56(a), substituted "except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall enforce any permit condition or limitation" for "the Administrator shall enforce any permit condition or limitation".

Subsec. (a)(3). Pub. L. 95-217, §§ 55(b), 67(c)(2)(B), substituted "1318, 1328, or 1345 of this title" for "or 1318 of this title" added "or in a permit issued under section 1344 of this title by a State" following "in a

permit issued under section 1342 of this title by him or by a State".

Subsec. (a)(4). Pub. L. 95-217, § 56(b), struck out provision that any order issued under this subsection had to be by personal service and had to state with reasonable specificity the nature of the violation and a time for compliance, not to exceed thirty days, which the Administrator determined to be reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. See section subsec. (a)(5) of this section.

Subsec. (a)(5), (6). Pub. L. 95-217, § 56(c), added subsec. (a)(5) and (6).

Subsec. (c)(1). Pub. L. 95-217, § 67(c)(2)(C), substituted "by a State or in a permit issued under section 1344 of this title by a State, shall be punished" for "by a State, shall be punished".

Subsec. (d). Pub. L. 95-217, §§ 55(c), 67(c)(2)(D), substituted "1318, 1328, or 1345 of this title" for "or 1318 of this title" and added "or in a permit issued under section 1344 of this title by a State," following "permit issued under section 1342 of this title by the Administrator, or by a State,".

Subsec. (f). Pub. L. 95-217, § 54(b), added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1342, 1344, 1364, 1365, 1368 of this title.

§ 1321. Oil and hazardous substance liability

(a) Definitions

For the purpose of this section, the term—

[*See main edition for text of (1) to (10)*]

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel:

[*See main edition for text of (12) to (13)*]

(14) "hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section;

(15) "inland oil barge" means a non-self-propelled vessel carrying oil in bulk as cargo and certificated to operate only in the inland waters of the United States, while operating in such waters;

(16) "inland waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway.

(b) Congressional declaration of policy against discharges of oil or hazardous substances; designation of hazardous substances; determination of removability; liability; penalties

(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]).

(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B)(i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance can actually be removed.

[*See main edition for text of (ii) to (iv)*]

(v) In addition to establishing a penalty for the discharge of a hazardous substance determined not to be removable pursuant to clauses (ii) through (iv) of this subparagraph, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(3) The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]), in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), where permitted under the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine

not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation, to be issued as soon as possible after October 18, 1972, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6) Any owner, operator, or person in charge of any onshore facility or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. Any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) who is otherwise subject to the jurisdiction of the United States, shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 91 of title 46 of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(c) Removal of discharged oil or hazardous substances; National Contingency Plan

(1) Whenever any oil or a hazardous substance is discharged, or there is a substantial threat of such discharge, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]) the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

(2) Within sixty days after October 18, 1972, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

[*See main edition for text of* (*A*) *to* (*C*)]

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies;

[*See main edition for text of* (*E*) *to* (*H*)]

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Maritime disaster discharges

Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private

shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection or under the Intervention on the High Seas Act [33 U.S.C. 1471 et seq.] (or the convention defined in section 2(3) thereof [33 U.S.C. 1471(3)]) shall be a cost incurred by the United States Government for the purposes of subsection (f) of this section in the removal of oil or hazardous substance.

[*See main edition for text of (e)*]

(f) Liability for actual costs of removal

(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed, in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed $50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed $50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent

of such natural resources by the appropriate agencies of the Federal Government, or the State government.

(g) Third party liability

Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) of this section for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection. In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, the liability of such third party under this subsection shall not exceed, in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

[*See main edition for text of (h)*]

(i) Recovery of removal costs

[*See main edition for text of (1)*]

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.].

(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the funds established pursuant to subsection (k) of this section.

(j) Regulations; penalty

[*See main edition for text of (1)*]

(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulations, shall be liable to a civil penalty of not more than $5,000 for each such violation. This paragraph shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of subsection (b) of this section unless such owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

(k) Authorization of appropriations

There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury such sums as may be necessary to maintain such fund at a level of $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (*l*) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

[*See main edition for text of (l) to (o)*]

(p) Financial responsibility

(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of, in the case

of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

[*See main edition for text of (2) to (6)*]

(q) Establishment of maximum limit of liability with respect to onshore or offshore facilities

The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f)(2) and (3) of this section of less than $50,000,000, but not less than $8,000,000.

(r) Liability limitations not to limit liability under other legislation

Nothing in this section shall be construed to impose, or authorize the imposition of, any limitation on liability under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.].

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 57, 58(a)-(g), (i), (k)-(m), 91 Stat. 1593-1596.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsecs. (b)(1), (2)(A), (3), (c)(1), (i)(2), and (r), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

The Deepwater Port Act of 1974, referred to in subsecs. (b)(1), (2)(A), (3), (c)(1), (i)(2), and (r), is Pub. L. 93-627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified generally to chapter 29 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Fishery Conservation and Management Act of 1976, referred to in subsecs. (b)(1), (2)(A), (3), and (c)(1), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

The Intervention on the High Seas Act, referred to in subsecs. (c)(1), is Pub. L. 93-248, Feb. 5, 1974, 88 Stat. 8, which is classified generally to chapter 28 (§ 1471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of this title and Tables.

AMENDMENTS

1977 Subsec. (a)(11). Pub. L. 95-217, § 58(k), added ", and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters," following "United States".

Subsec. (a)(15), (16). Pub. L. 95-217, § 58(d)(1), added subsec. (a)(15) and (16).

Subsec. (b)(1). Pub. L. 95-217, § 58(a)(1), added reference to activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

Subsec. (b)(2)(A). Pub. L. 95-217, § 58(a)(2), added reference to activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

Subsec. (b)(2)(B)(v). Pub. L. 95-217, § 57, added subsec. (b)(2)(B)(v).

Subsec. (b)(3). Pub. L. 95-217, § 58(a)(3), (4), designated a part of the existing provisions preceding cl. (A) as cl. (i) and added cl. (ii), and, in cl. (A), added "or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" following "waters of the contiguous zone" and struck out "article IV of" preceding "the International Convention for the Prevention of Pollution of the Sea by Oil, 1954".

Subsec. (b)(4). Pub. L. 95-217, § 58(a)(5), struck out provisions under which, in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threatened the fishery resources of the contiguous zone or threatened to pollute or contribute to the pollution of the territory or the territorial sea of the United States could be determined to be harmful.

Subsec. (b)(5). Pub. L. 95-217, § 58(a)(6), added cls. (A), (B), and (C) between "Any such person" and "who fails to notify".

Subsec. (b)(6). Pub. L. 95-217, § 58(a)(7), (8), substituted "Any owner, operator, or person in charge of any onshore facility, or offshore facility" for "Any owner or operator of any vessel, onshore facility, or offshore facility" in the provision relating to violations of par. (3) of this subsection, and added provisions directing the assessment of a civil penalty of not more than $5,000 for each offense by the Secretary of the department in which the Coast Guard is operating to be assessed against any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) who is otherwise subject to the jurisdiction of the United States.

Subsec. (c)(1). Pub. L. 95-217, § 58(b), (c)(1), added "or there is a substantial threat of such discharge," following "Whenever any oil or a hazardous substance is discharged," and "or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" following "waters of the contiguous zone,".

Subsec. (c)(2)(D). Pub. L. 95-217, § 58(e), substituted "and imminent threats of such discharges to the ap-

propriate State and Federal agencies;" for "to the appropriate Federal agency;".

Subsec. (d). Pub. L. 95-217, § 58(c)(2), added "or under the Intervention on the High Seas Act (or the convention defined in section 2(3) thereof)" following "Any expense incurred under this subsection".

Subsec. (f)(1). Pub. L. 95-217, § 58(d)(2), substituted ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater," for "$100 per gross ton of such vessel or $14,000,000, whichever is lesser,".

Subsec. (f)(2). Pub. L. 95-217, § 58(d)(5), substituted "$50,000,000" for "$8,000,000".

Subsec. (f)(3). Pub. L. 95-217, § 58(d)(6), substituted "$50,000,000" for "$8,000,000".

Subsec. (f)(4), (5). Pub. L. 95-217, § 58(g), added subsec. (f)(4) and (5).

Subsec. (g). Pub. L. 95-217, § 58(d)(3), (f), substituted ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater" for "$100 per gross ton of such vessel or $14,000,000, whichever is the lesser" in the existing provisions and added provision under which, where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsec. (b) of this section, alleges that the discharge was caused solely by an act or omission of a third party, the owner or operator must pay to the United States Government the actual costs incurred under subsec. (c) of this section for removal of the oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover the costs from the third party under this subsection.

Subsec. (i)(2). Pub. L. 95-217, § 58(m), added reference to the Deepwater Port Act of 1974.

Subsec. (j)(2). Pub. L. 95-217, § 58(c)(3), added provision that subsec. (j)(2) shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsec. (b)(3)(ii) of this section unless the owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States.

Subsec. (k). Pub. L. 95-217, § 58(*l*), substituted "such sums as may be necessary to maintain such fund at a level of $35,000,000" for "not to exceed $35,000,000".

Subsec. (p)(1). Pub. L. 95-217, § 58(d)(4), substituted ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater," for "$100 per gross ton, or $14,000,000 whichever is the lesser,".

Subsecs. (q), (r). Pub. L. 95-217, § 58(i), added subsecs. (q) and (r).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 58(h) of Pub. L. 95-217 provided that: "The amendments made by paragraphs (5) and (6) of subsection (d) of this section [substituting "$50,000,000" for "$8,000,000" in subsec. (f)(2) and substituting "$50,000,000" for "$8,000,000" in subsec. (f)(3) of this section] shall take effect 180 days after the date of enactment of the Clean Water Act of 1977 [Dec. 27, 1977]."

ALLOWABLE DELAY IN ESTABLISHING FINANCIAL RESPONSIBILITY FOR INCREASE IN AMOUNTS UNDER 1977 AMENDMENT

Section 58(j) of Pub. L. 95-217 provided that: "No vessel subject to the increased amounts which result from the amendments made by subsections (d)(2), (d)(3), and (d)(4) of this section [amending subsecs. (f)(1), (g), and (p)(1) of this section] shall be required to establish any evidence of financial responsibility under section 311(p) of the Federal Water Pollution Control Act [subsec. (p) of this section] for such increased amounts before October 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1014, 1314, 1318, 1364, 1376, 1402, 1486, 1517 of this title; title 43 section 1653.

§ 1322. Marine sanitation devices

(a) Definitions

For the purpose of this section, the term—

[*See main edition for text of (1) to (5)*]

(6) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater;

[*See main edition for text of (7) and (8)*]

(9) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(10) "commercial vessels" means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel;

(11) "graywater" means galley, bath, and shower water.

(b) Federal standards of performance

(1) As soon as possible, after October 18, 1972, and subject to the provisions of section 1254(j) of this title, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards and standards established under subsection (c)(1)(B) of this section shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and subsection (c) of this section and with maritime safety and the marine and navigation

laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

[*See main edition for text of (2)*]

(c) Initial standards; effective dates; revision; waiver

(1)(A) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(B) The Administrator shall, with respect to commercial vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 1314(d) of this title. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.

[*See main edition for text of (2); (d) and (e)*]

(f) Regulation by States or political subdivisions thereof; complete prohibition upon discharge of sewage

[*See main edition for text of (1) to (3)*]

(4)(A) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

[*See main edition for text of (g) to (m)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 59, 91 Stat. 1596.)

AMENDMENTS

1977—Subsec. (a)(6). Pub. L. 95-217, § 59(a), added "except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater" following "receive or retain body wastes".

Subsec. (a) (10), (11). Pub. L. 95-217, § 59(b), added subsec. (a) (10) and (11).

Subsec. (b)(1). Pub. L. 95-217, § 59(c), added references to standards established under subsec. (c)(1)(B) of this section and to standards promulgated under subsec. (c) of this section.

Subsec. (c)(1). Pub. L. 95-217, § 59(d), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (f)(4). Pub. L. 95-217, § 59(e), designated existing provisions as subpar. (A) and added subpar. (B).

§ 1323. Federal facilities pollution control

(a) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants, and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement, whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of his official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with section 1441 et seq. of title 28. No officer, agent, or employee of the United States shall be personally liable for any civil penalty arising from the performance of his official duties, for which he is not otherwise liable, and the United States shall be liable only for those civil penalties arising under Federal law or imposed by a State or local court to enforce an order or the process of such court. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 1316 or 1317 of this title. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption. In addition to any such exemption of a particular effluent source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles,

or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.

(b)(1) The Administrator shall coordinate with the head of each department, agency, or instrumentality of the Federal Government having jurisdiction over any property or facility utilizing federally owned wastewater facilities to develop a program of cooperation for utilizing wastewater control systems utilizing those innovative treatment processes and techniques for which guidelines have been promulgated under section 1314(d)(3) of this title. Such program shall include an inventory of property and facilities which could utilize such processes and techniques.

(2) Construction shall not be initiated for facilities for treatment of wastewater at any Federal property or facility after September 30, 1979, if alternative methods for wastewater treatment at such property or facility utilizing innovative treatment processes and techniques, including but not limited to methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive the application of this paragraph in any case where the Administrator determines it to be in the public interest, or that compliance with this paragraph would interfere with the orderly compliance with conditions of a permit issued pursuant to section 1342 of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 60, 61(a), 91 Stat. 1597, 1598.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, §§ 60, 61(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, added provisions making officers, agents, or employees of Federal departments, agencies, or instrumentalities subject to Federal, State, interstate, and local requirements, administrative authority, process, and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as non-governmental entities, including the payment of reasonable service charges, added provisions covering Federal employee liability, and added provisions relating to military source exemptions and the issuance of regulations covering those exemptions.

Subsec. (b). Pub. L. 95-217, § 60, added subsec. (b).

§ 1324. Clean lakes

[*See main edition for text of* (a)]

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section. The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.

(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year 1974; $150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, and $60,000,000 for fiscal year 1980 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 4(f), 62(a), 91 Stat. 1567, 1598.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-217, § 62(a), added provision directing the Administrator to provide financial assistance to States to prepare the identification and classification surveys required in subsec. (a)(1) of this section.

Subsec. (c)(2). Pub. L. 95-217, § 4(f), substituted "$150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, and $60,000,000 for fiscal year 1980" for "and $150,000,000 for the fiscal year 1975".

§ 1328. Aquaculture

(a) Authority to permit discharge of specific pollutants

The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 1342 of this title.

(b) Procedures and guidelines

The Administrator shall by regulation establish any procedures and guidelines which the Administrator deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title, as the Administrator determines necessary to carry out the objective of this chapter.

(c) State administration

Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this chapter.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 63, 91 Stat. 1599.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 added "pursuant to section 1342 of this title" following "Federal or State supervision".

Subsec. (b). Pub. L. 95-217 struck out ", not later than January 1, 1974," following "The Administrator shall by regulation" in existing provisions and added provisions that the regulations require the application to the discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title, as the Administrator determines necessary to carry out the objectives of this chapter.

Subsec. (c). Pub. L. 95-217 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1319, 1342 of this title.

SUBCHAPTER IV—PERMITS AND LICENSES

§ 1341. Certification

(a) Compliance with applicable requirements; application; procedures; license suspension

(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 1311(b) and 1312 of this title, and there is not an applicable standard under sections 1316 and 1317 of this title, the State shall so certify, except that any such certification shall not be deemed to satisfy section 1371(c) of this title. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

[See main edition for text of (2)]

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 1311, 1312, 1313, 1316, or 1317 of this title.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 1311, 1312, 1313, 1316, or 1317 of this title.

(5) Any Federal license or permit with respect to which a certification has been obtained

under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this chapter that such facility or activity has been operated in violation of the applicable provisions of section 1311, 1312, 1313, 1316, or 1317 of this title.

(6) Except with respect to a permit issued under section 1342 of this title, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

[(7) Redesignated (6).]

[*See main edition for text of* (*b*) *to* (*d*)]

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 61(b), 64, 91 Stat. 1598, 1599.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 added reference to section 1313 of this title in pars. (1), (3), (4), and (5), struck out par. (6) which had provided that no Federal agency be deemed an applicant for the purposes of this subsection, and redesignated former par. (7) as (6).

§ 1342. National pollutant discharge elimination system

(a) Permits for discharge of pollutants

[*See main edition for text of* (*1*) *to* (*4*)]

(5) No permit for a discharge into the navigable waters shall be issued under section 407 of this title after October 18, 1972. Each application for a permit under section 407 of this title, pending on October 18, 1972, shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this chapter to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on October 18, 1972, and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 1314(i)(2) of this title, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out of the provisions of this chapter. No such permit shall issue if the Administrator objects to such issuance.

(b) State permit programs

At any time after the promulgation of the guidelines required by subsection (i)(2) of section 1314 of this title, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administration a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each submitted program unless he determines that adequate authority does not exist:

[*See main edition for text of* (*1*) *to* (*7*)]

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 1316 of this title if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 1311 of this title if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

[*See main edition for text of* (*9*)]

(c) Suspension of federal program upon submission of State program; withdrawal of approval of State program

(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 1314(i)(2) of this title. If the Administrator so determines, he shall notify the State

of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 1314(i)(2) of this title.

[*See main edition for text of* (3)]

(d) Notification of Administrator

[*See main edition for text of* (1)]

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this chapter. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after December 27, 1977, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this chapter.

(e) Waiver of notification requirement

In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

[*See main edition for text of* (*f*) *to* (*g*)]

(h) Violation of permit conditions; restriction or prohibition upon introduction of pollutant by source not previously utilizing treatment works

In the event any condition of a permit for discharges from a treatment works (as defined in section 1292 of this title) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

[*See main edition for text of* (*i*) *to* (*k*)]

***(l)* Irrigation return flows**

The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 33(c), 50, 54(c)(1), 65, 66, 91 Stat. 1577, 1588, 1591, 1599, 1600.)

AMENDMENTS

1977—Subsec. (a)(5). Pub. L. 95-217, § 50, substituted "section 1314(i)(2)" for "section 1314(h)(2)".

Subsec. (b). Pub. L. 95-217, § 50, substituted in the material preceding par. (1) "subsection (i)(2) of section 1314" for "subsection (h)(2) of section 1314".

Subsec. (c)(1), (2). Pub. L. 95-217, § 50, substituted "section 1314(i)(2)" for "section 1314(h)(2)".

Subsec. (b)(8). Pub. L. 95-217, § 54(c)(1), added reference to the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into treatment works and programs to assure compliance with pretreatment standards by each source.

Subsec. (d)(2). Pub. L. 95-217, § 65(b), added provision requiring that, whenever the Administrator objects to the issuance of a permit under subsec. (d)(2) of this section, the written objection contain a statement of the reasons for the objection and the effluent limitations and conditions which the permit would include if it were issued by the Administrator.

Subsec. (d)(4). Pub. L. 95-217, § 65(a), added subsec. (d)(4).

Subsec. (e). Pub. L. 95-217, § 50, substituted "subsection (i)(2) of section 1314" for "subsection (h)(2) of section 1314".

Subsec. (h). Pub. L. 95-217, § 66, substituted "where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit," for "where no State program is approved,".

Subsec. (*l*). Pub. L. 95-217, § 33(c), added subsec. (*l*).

ALLOWABLE DELAY IN MODIFYING EXISTING APPROVED STATE PERMIT PROGRAMS TO CONFORM TO 1977 AMENDMENT

Section 54(c)(2) of Pub. L. 95-217 provided that: "Any State permit program approved under section 402 of the Federal Water Pollution Control Act [this section] before the date of enactment of the Clean Water Act of 1977 [Dec. 27, 1977], which requires modification to conform to the amendment made by paragraph (1) of this subsection [amending subsec. (b)(8) of this section], shall not be required to be modified before the end of the one year period which begins on the date of enactment of the Clean Water Act of 1977 unless in order to make the required modification a State must amend or enact a law in which case such modification shall not be required for such State before the end of the two year period which begins on such date of enactment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1251, 1285, 1288, 1311, 1314, 1318, 1319, 1323, 1328, 1341, 1343, 1344, 1345, 1364, 1365, 1369, 1371, 1373 of this title; title 42 section 6903.

§ 1343. Ocean discharge criteria

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1288, 1314, 1342, 1344, 1364 of this title.

§ 1344. Permits for dredged or fill material

(a) Discharge into navigable waters at specified disposal sites

The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.

(b) Specification for disposal sites

Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 1343(c) of this title, and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) Denial or restriction of use of defined areas as disposal sites

The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(d) Definition

The term "Secretary" as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

(e) General permits on State, regional, or nationwide basis

(1) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued under this subsection shall (A) be based on the guidelines described in subsection (b)(1) of this section, and (B) set forth the requirements and standards which shall apply to any activity authorized by such general permit.

(2) No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.

(f) Non-prohibited discharge of dredged or fill material

(1) Except as provided in paragraph (2) of this subsection, the discharge of dredged or fill material—

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;

(E) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

(F) resulting from any activity with respect to which a State has an approved program under section 1288(b)(4) of this title which meets the requirements of subparagraphs (B) and (C) of such section,

is not prohibited by or otherwise subject to regulation under this section or section 1311(a) or 1342 of this title (except for effluent standards or prohibitions under section 1317 of this title).

(2) Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

(g) State administration

(1) The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto) within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

(2) Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(3) Not later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

(h) Determination of State's authority to issue permits under State program; approval; notification; transfers to State program

(1) Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:

(A) To issue permits which—

(i) apply, and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, and sections 1317 and 1343 of this title;

(ii) are for fixed terms not exceeding five years; and

(iii) can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the permit;

(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(B) To issue permits which apply, and assure compliance with, all applicable requirements of section 1318 of this title, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 1318 of this title.

(C) To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.

(D) To assure that the Administrator receives notice of each application (including a copy thereof) for a permit.

(E) To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.

(F) To assure that no permit will be issued if, in the judgment of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.

(G) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

(2) If, with respect to a State program submitted under subsection (g)(1) of this section, the Administrator determines that such State—

(A) has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsections (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or

(B) does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.

(3) If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g)(1) of this section within one-hundred-twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2)(A) of this subsection and the Administrator shall so notify such State and the Secretary who, upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued by such State.

(4) After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.

(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

(i) Withdrawal of approval

Whenever the Administrator determines after public hearing that a State is not administering a program approved under subsection (h)(2)(A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall (1) withdraw approval of such program until the Administrator determines such corrective action has been taken, and (2) notify the Secretary that the Secretary shall resume the program for the issuance of permits under subsections (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.

(j) Copies of applications for State permits and proposed general permits to be transmitted to Administrator

Each State which is administering a permit program pursuant to this section shall transmit to the Administrator (1) a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and (2) a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetieth day after the date of such receipt. If such State is so notified by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h)(1)(E) of this section, or (B) to the issuance of such proposed permit as being outside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b)(1) of this section unless it modifies such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90

days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this chapter.

(k) Waiver

In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h)(2)(A) of this section for any category (including any class, type, or size within such category) of discharge within the State submitting such program.

(*l*) Categories of discharges not subject to requirements

The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h)(2)(A) of this section. The Administrator may distinguish among classes, types, and sizes within any category of discharges.

(m) Comments on permit applications or proposed general permits by Secretary of the Interior acting through Director of United States Fish and Wildlife Service

Not later than the ninetieth day after the date on which the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service that (1) an application for a permit under subsection (a) of this section has been received by the Secretary, or (2) the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

(n) Enforcement authority not limited

Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 1319 of this title.

(*o*) Public availability of permits and permit applications

A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.

(p) Compliance

Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 1319 and 1365 of this title, with sections 1311, 1317, and 1343 of this title.

(q) Minimization of duplication, needless paperwork, and delays in issuance; agreements

Not later than the one-hundred-eightieth day after December 27, 1977, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice for such application is published under subsection (a) of this section.

(r) Federal projects specifically authorized by Congress

The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after December 27, 1977, is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 1311(a) or 1342 of this title (except for effluent standards or prohibitions under section 1317 of this title), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for such construction.

(s) Violation of permits

(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such person to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is

located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such acton shall be given immediately to the appropriate State.

(4)(A) Any person who willfully or negligently violates any condition or limitation in a permit issued by the Secretary under this section shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(B) For the purposes of this paragraph, the term "person" shall mean, in addition to the definition contained in section 1362(5) of this title, any responsible corporate officer.

(5) Any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

(t) Navigable waters within State jurisdiction

Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 67(a), (b), 91 Stat. 1600.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (r), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 67(a)(1), substituted "The Secretary" for "The Secretary of the Army, acting through the Chief of Engineers," and added provision that, not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary publish the notice required by this subsection.

Subsec. (b). Pub. L. 95-217, § 67(a)(2), substituted "the Secretary" for "the Secretary of the Army".

Subsec. (c). Pub. L. 95-217, § 67(a)(2), substituted "the Secretary" for "the Secretary of the Army".

Subsecs. (d) to (t). Pub. L. 95-217, § 67(b), added subsecs. (d) to (t).

AUTHORITY TO DELEGATE TO STATE OF WASHINGTON FUNCTIONS OF THE SECRETARY RELATING TO LAKE CHELAN, WASHINGTON

Section 76 of Pub. L. 95-217 provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to the State of Washington upon its request all or any part of those functions vested in such Secretary by section 404 of the Federal Water Pollution Control Act [this section] and by sections 9, 10, and 13 of the Act of March 3, 1899 [sections 401, 403, and 407 of this title], relating to Lake Chelan, Washington, if the Secretary determines (1) that such State has the authority, responsibility, and capability to carry out such functions, and (2) that such delegation is in the public interest. Such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such delegation."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1251, 1285, 1288, 1311, 1318, 1319, 1342 of this title.

§ 1345. Disposal or use of sewage sludge

(a) Permit

Notwithstanding any other provision of this chapter or of any other law, in any case where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 1292 of this title (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under section 1342 of this title.

(b) Issuance of permit; regulations

The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to subsection (a) of this section and section 1342 of this title. Such regulations shall require the application to such disposal of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title.

(c) State permit program

Each State desiring to administer its own permit program for disposal of sewage sludge subject to subsection (a) of this section within its jurisdiction may do so in accordance with section 1342 of this title.

(d) Regulations providing guidelines

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after December 27, 1977, and from time to time thereafter, regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. Such regulations shall—

(1) identify uses for sludge, including disposal;

(2) specify factors to be taken into account in determining the measures and practices applicable to each such use or disposal (including publication of information on costs);

(3) identify concentrations of pollutants which interfere with each such use or disposal.

The Administrator is authorized to revise any regulation issued under this subsection.

(e) Local determination; compliance with guidelines

The determination of the manner of disposal or use of sludge is a local determination except that it shall be unlawful for the owner or operator of any publicly owned treatment works to dispose of sludge from such works for any use for which guidelines have been established pursuant to subsection (d) of this section, except in accordance with such guidelines.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 54(d), 68, 91 Stat. 1591, 1606.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 68(a), substituted "under section 1342 of this title" for "under this section".

Subsec. (b). Pub. L. 95-217, §§ 54(d)(1), 68(b), (c), substituted "sewage sludge subject to subsection (a) of this section and section 1342 of this title" for "sewage sludge subject to this section" and struck out ", as the Administrator determines necessary to carry out the objective of this chapter" following "permit issued under section 1342 of this title".

Subsec. (c). Pub. L. 95-217, §§ 54(d)(2), 68(d), substituted "disposal of sewage sludge subject to subsection (a) of this section within its jurisdiction may do so in accordance with section 1342 of this title" for "disposal of sewage sludge within its jurisdiction may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this chapter".

Subsecs. (d), (e). Pub. L. 95-217, § 54(d)(3), added subsecs. (d) and (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1317, 1319 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§ 1362. Definitions

Except as otherwise specifically provided, when used in this chapter:

[*See main edition for text of (1) to (13)*]

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

[*See main edition for text of (15) to (19)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 33(b), 91 Stat. 1577.)

AMENDMENTS

1977—Par. (14). Pub. L. 95-217 added provision that the term "point source" does not include return flows from irrigated agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1319, 1344 of this title; title 26 section 169.

§ 1364. Emergencies

(a) Emergency powers

Notwithstanding any other provision of this chapter, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

(b) Emergency assistance; emergency fund; annual report; contingency plans; costs

(1) The Administrator is authorized to provide assistance in emergencies caused by the release into the environment of any pollutant or other contaminant including, but not limited to, those which present, or may reasonably be anticipated to present, an imminent and substantial danger to the public health or welfare.

(2) There is hereby established a contingency fund to carry out paragraph (1) of this subsection and there is authorized to be appropriated to such fund not to exceed $10,000,000. The amounts appropriated under this paragraph shall remain available until expended. There is authorized to be appropriated such sums as are necessary to maintain that portion of such fund available for emergency assistance at a $10,000,000 level.

(3) The Administrator shall submit a report annually to each House of Congress on his activities in carrying out this subsection.

(4) This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Nothing contained in this subsection shall (A) affect any final action taken under such other Federal law, or (B) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.

(5) The Administrator is authorized to provide emergency assistance under this subsection whenever the Administrator determines—

(A) such assistance is immediately required to prevent, limit, or mitigate the emergency;

(B) there is an immediate significant risk to the public health or welfare and the environment; and

(C) such assistance will not otherwise be provided on a timely basis.

(6) Emergency assistance provided under this subsection may include (A) measures to abate and remedy the emergency, (B) the performance of research on the effects of an emergency on public health, welfare, and the environment, and (C) providing officers and employees of the agency to administer, at the site of any emergency, the authority under this or other Feder-

al law to minimize and mitigate the adverse effects of the emergency.

(7) The Administrator shall prepare and publish a contingency plan for responding to emergencies under this subsection. Such contingency plan shall include actions and responsibilities comparable to those specified in section 1321(c)(2) of this title.

(8) If emergency assistance is provided under this subsection in an emergency caused by the discharge of any pollutant subject to section 1321 of this title, the cost of such assistance shall, at the discretion of the Administrator, be a cost of removal for the purposes of subsections (f) and (g) of such section, and added to any liability which may be imposed under subsection (b)(2) of such section.

(9) The cost of any emergency assistance provided under this subsection in an emergency caused by the discharge of a pollutant in violation of any requirement of section 1311, 1316, 1317, 1342, or 1343 of this title, shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 1319 of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 69, 91 Stat. 1607.)

AMENDMENTS

1977—Pub. L. 95-217 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1365. Citizen suits

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1342, 1344 of this title.

§ 1375. Reports to Congress

(a) Implementation of chapter objectives; status and progress of programs

[*See main edition for text of* (a)]

(b) Detailed estimates and comprehensive study on costs; State estimates, survey form

[*See main edition for text of* (b)]

(c) Status of combined sewer overflows in municipal treatment works operations

The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this chapter to address combined sewer overflows (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $5,000,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) Status on use of municipal secondary effluent and sludge for agricultural and other purposes that utilize nutrient value of treated wastewater effluent

The Administrator shall submit to the Congress by October 1, 1978, a report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results of research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 1254 and 1255 of this title, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an analysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage or require the expanded utilization of sludge for agricultural and other purposes. In carrying out this subsection, the Administrator shall consult with, and use the services of the Tennessee Valley Authority and other departments, agencies, and instrumentalities of the United States, to the extent it is appropriate to do so.

(e) Legislative recommendations on program requiring coordination between water supply and wastewater control plans as condition for construction grants; public hearing

The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources agencies of the States and the United States shall submit to Congress, within two years of December 27, 1977, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this chapter. No such report shall be submitted except after opportunity for public hearings on such proposed report.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 70-72, 91 Stat. 1608, 1609.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-217, § 70, added subsec. (c).

Subsec. (d). Pub. L. 95-217, § 71, added subsec. (d).

Subsec. (e). Pub. L. 95-217, § 72, added subsec. (e).

§ 1376. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, other than sections 1254, 1255, 1256(a), 1257, 1258, 1262, 1263, 1264, 1265, 1286, 1287, 1288(f) and (h), 1289, 1314, 1321(c), (d), (i), (*l*), and (k), 1324, 1325, and 1327 of this title, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, and $150,000,000 for the fiscal year ending September 30, 1980.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 4(g), 91 Stat. 1567.)

AMENDMENTS

1977—Pub. L. 95-217 substituted "$350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, and $150,000,000 for the fiscal year ending September 30, 1980" for "and $350,000,000 for the fiscal year ending June 30, 1975".

AUTHORIZATION APPROVAL FOR FUNDS APPROPRIATED BEFORE DECEMBER 27, 1977, FOR EXPENDITURES THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1977

Pub. L. 95-217, § 3, Dec. 27, 1977, 91 Stat. 1566, provided that: "Funds appropriated before the date of enactment of this Act [Dec. 27, 1977] for expenditure during the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977, under authority of the Federal Water Pollution Control Act [this chapter], are hereby authorized for those purposes for which appropriated."

CHAPTER 27—OCEAN DUMPING

SUBCHAPTER I—REGULATION

Sec.
1412a. Cessation of sewage sludge ocean dumping; "sewage sludge" defined [New].

SUBCHAPTER I—REGULATION

§ 1411. Prohibited acts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1412a of this title.

§ 1412a. Cessation of sewage sludge ocean dumping; "sewage sludge" defined

(a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the "Administrator") shall end the dumping of sewage sludge into ocean waters, or into waters described in section 1411(b) of this title, as soon as possible after November 4, 1977, but in no case may the Administrator issue any permit, or any renewal thereof (under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 [33 U.S.C. 1411 et seq.]) which authorizes any such dumping after December 31, 1981.

(b) For purposes of this section, the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.

(Pub. L. 95-153, § 4, Nov. 4, 1977, 91 Stat. 1255.)

REFERENCES IN TEXT

The Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (a), is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, as amended. Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 is classified generally to subchapter I (§ 1411 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92-532, which comprises this chapter.

§ 1420. Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973, not to exceed $5,500,000 for each of the fiscal years 1974 and 1975, not to exceed $5,300,000 for fiscal year 1976, not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976), not to exceed $4,800,000 for fiscal year 1977, and not to exceed $4,800,000 for fiscal year 1978, for the purposes and administration of this subchapter, and for succeeding fiscal years only such sums as the Congress may authorize by law.

(As amended Pub. L. 95-153, § 1, Nov. 4, 1977, 91 Stat. 1255.)

AMENDMENTS

1977—Pub. L. 95-153 added provision authorizing appropriations not to exceed $4,800,000 for fiscal year 1978.

SUBCHAPTER II—RESEARCH

§ 1444. Authorization of appropriations

There are authorized to be appropriated for the first fiscal year after October 23, 1972, and for the next two fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any such fiscal year may not exceed $6,000,000. There are authorized to be appropriated not to exceed $1,500,000 for the transition period (July 1 through September 30, 1976), not to exceed $5,600,000 for fiscal year 1977, and not to exceed $6,500,000 for fiscal year 1978.

(As amended Pub. L. 95-153, § 2, Nov. 4, 1977, 91 Stat. 1255.)

AMENDMENTS

1977—Pub. L. 95-153 added provision authorizing appropriations not to exceed $6,500,000 for fiscal year 1978.

CHAPTER 28—OIL POLLUTION CASUALTIES ON THE HIGH SEAS: UNITED STATES INTERVENTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1321 of this title.

§ 1471. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1321 of this title.

CHAPTER 29—DEEPWATER PORTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1321 of this title.

§ 1502. Definitions

As used in this chapter, unless the context otherwise requires, the term—

[*See main volume for text of (1) to (9)*]

(10) "deepwater port" means any fixed or floating manmade structures other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil for transportation to any State, except as otherwise provided in section 1522 of this title. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a "new source" for purposes of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], and the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.];

[*See main volume for text of (11) to (19)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in par. (10), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Par. (10) is set out in this supplement to reflect the current citation to the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

§ 1503. License for ownership, construction, and operation of deepwater port

[*See main volume for text of (a), (b)*]

(c) Conditions for issuance

The Secretary may issue a license in accordance with the provisions of this chapter if—

[*See main volume for text of (1) to (5)*]

(6) he has not been informed, within 45 days of the last public hearing on a proposed license for a designated application area, by the Administrator of the Environmental Protection Agency that the deepwater port will not conform with all applicable provisions of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Marine Protection, Research and Sanctuaries Act, as amended [33 U.S.C. 1401 et seq.];

[*See main volume for text of (7) to (10); (d) to (h)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(6), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (c)(6) is set out in this supplement to reflect the current citation to the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

§ 1524. Authorization of appropriations

There is authorized to be appropriated for administration of this chapter, not to exceed $2,500,000 per fiscal year for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980.

(As amended Pub. L. 95-36, June 1, 1977, 91 Stat. 177.)

AMENDMENTS

1977—Pub. L. 95-36 authorized appropriations of not to exceed $2,500,000 per fiscal year for fiscal years ending Sept. 30, 1977, Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980.

CHAPTER 30—INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA [NEW]

Sec.
1601. Definitions.
1602. International Regulations.
(a) Proclamation by President; effective date.
(b) Publication of proclamation in Federal Register.
(c) Amendment of International Regulations.

Sec.
(d) Notification to Congress of proposed amendments; Congressional resolution of disapproval.
1603. Vessels subject to International Regulations.
1604. Vessels not subject to International Regulations; conflicts with laws and regulations of foreign states.
1605. Navy and Coast Guard vessels of special construction or purpose.
(a) Certification for alternative compliance.
(b) Closest possible compliance by vessels covered by certification for alternative compliance.
(c) Publication of certifications in Federal Register.
1606. Special rules for ships of war, vessels proceeding under convoy, and fishing vessels engaged in fishing as a fleet.
1607. Implementation by rules and regulations; authority to promulgate.
1608. Civil penalties.
(a) Liability of vessel operator for violations.
(b) Liability of vessel for violations; seizure of vessel.
(c) Assessment of penalties; notice; opportunity for hearing; remission, mitigation, and compromise of penalty; action for collection.

§ 1601. Definitions

For the purposes of this chapter—

(1) "vessel" means every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water; and

(2) "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of any nation.

(Pub. L. 95-75, § 2, July 27, 1977, 91 Stat. 308.)

References in Text

This chapter, referred to in opening par., in the original read "this Act", meaning Pub. L. 95-75, July 27, 1977, 91 Stat. 308, known as the "International Navigational Rules Act of 1977", which enacted this chapter, repealed sections 1051 to 1094 of this title, enacted provisions set out as notes under this section, and repealed provision set out as a note under section 1051 of this title.

Effective Date of International Regulations; Repeal of Former Regulations

Section 10 of Pub. L. 95-75 provided in part that Pub. L. 88-131, enacting sections 1051 to 1094 of this title and a provision set out as a note under section 1051 of this title which sections included the former International Regulations for Preventing Collisions at Sea, was repealed effective on the date on which the International Regulations [promulgated pursuant to this chapter] entered into force for the United States [July 15, 1977]. See Proclamation dated Jan. 19, 1977, set out as a note under section 1602 of this title.

References to Former Regulations

Section 10 of Pub. L. 95-75 provided in part that: "The reference in any other law to Public Law 88-131 [which enacted sections 1051 to 1094 of this title and enacted a provision set out as a note under section 1051 of this title], or to the regulations set forth in section 4 of that Act [sections 1061 to 1094 of this title], shall be considered a reference, respectively, to this Act [this chapter], or to the International Regulations proclaimed hereunder [set out as a note under section 1602 of this title]."

Short Title

Section 1 of Pub. L. 95-75 provided: "That this Act [enacting this chapter, repealing sections 1051 to 1094 of this title, enacting provisions set out as notes under this section, and repealing a provision set out as a note under section 1051 of this title] may be cited as the 'International Navigational Rules Act of 1977'."

§ 1602. International Regulations

(a) Proclamation by President; effective date

The President is authorized to proclaim the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the "International Regulations"). The effective date of the International Regulations for the United States shall be specified in the proclamation and shall be the date as near as possible to, but no earlier than, the date on which the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the "Convention"), signed at London, England, under date of October 20, 1972, enters into force for the United States. The International Regulations proclaimed shall consist of the rules and other annexes attached to the Convention.

(b) Publication of proclamation in Federal Register

The proclamation shall include the International Regulations and shall be published in the Federal Register. On the date specified in the proclamation, the International Regulations shall enter into force for the United States and shall have effect as if enacted by statute.

(c) Amendment of International Regulations

Subject to the provisions of subsection (d) of this section, the President is also authorized to proclaim any amendment to the International Regulations hereafter adopted in accordance with the provisions of article VI of the Convention, and to which the United States does not object. The effective date of the amendment shall be specified in the proclamation and shall be in accordance with the provisions of the said article VI. The proclamation shall include the adopted amendment and shall be published in the Federal Register. On the date specified in the proclamation, the amendment shall enter into force for the United States as a constituent part of the International Regulations, as amended, and shall have effect as if enacted by statute.

(d) Notification to Congress of proposed amendments; Congressional resolution of disapproval

(1) Upon receiving a proposed amendment to the International Regulations, communicated to the United States pursuant to clause 3 of article VI of the Convention, the President shall promptly notify the Congress of the proposed amendment. If, within sixty days after receipt of such notification by the Congress, or ten days prior to the date under clause 4 of article VI for registering an objection, whichever comes first, the Congress adopts a resolution of disapproval, such resolution shall be transmitted to the President and shall constitute an ob-

jection by the United States to the proposed amendment. If, upon receiving notification of the resolution of disapproval, the President has not already notified the Inter-Governmental Maritime Consultative Organization of an objection to the United States to the proposed amendment, he shall promptly do so.

(2) For the purposes of this subsection, "resolution of disapproval" means a concurrent resolution initiated by either House of the Congress, the matter after the resolving clause of which is to read as follows: "That the (the concurring) does not favor the proposed amendment to the International Regulations for Preventing Collisions at Sea, 1972, relating to , and forwarded to the Congress by the President on .", the first blank space therein to be filled with the name of the resolving House, the second blank space therein to be filled with the name of the concurring House, the third blank space therein to be filled with the subject matter of the proposed amendment, and the fourth blank space therein to be filled with the day, month, and year.

(3) Any proposed amendment transmitted to the Congress by the President and any resolution of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Committee on Merchant Marine and Fisheries, and shall be referred, in the Senate, to the Committee on Commerce, Science, and Transportation.

(Pub. L. 95-75, § 3, July 27, 1977, 91 Stat. 308.)

PRIOR PROVISIONS

The original rules for the prevention of collisions on the water were contained in R.S. § 4233, which consisted of 26 rules, R.S. § 4412, which authorized the board of supervising inspectors to establish such regulations to be observed by all steam vessels in passing each other, as they should from time to time deem necessary for safety, and provided that copies of such regulations should be furnished to all of such vessels, to be kept posted up in conspicuous places in such vessels, and R.S. § 4413, which prescribed a penalty for neglecting or willfully refusing to observe the regulations established pursuant to said section 4412.

The rules prescribed by R.S. § 4233 were superseded as to navigation on the high seas and in all coast waters of the United States, except such as were otherwise provided for, by the adoption of the "Revised International Regulations" by act March 3, 1885, ch. 354, 23 Stat. 438, which rules were superseded by the passage and adoption of act Aug. 19, 1890, ch. 802, 26 Stat. 322, section 1 of which enacted a set of regulations for preventing collisions at sea to be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by seagoing vessels.

Act Aug. 19, 1890, ch. 802, § 1, consisted of 31 articles. Section 2 of act Aug. 19, 1890, ch. 802, repealed all laws and parts of laws inconsistent with the regulations for preventing collisions at sea for the navigation of all public and private vessels of the United States upon the high seas, and in all waters connected therewith navigable by seagoing vessels, prescribed by section 1 of that act.

The rules prescribed by R.S. § 4233, were further superseded as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal by act Feb. 8, 1895, ch. 64, 28 Stat. 645, section 1 of which enacted rules for preventing collisions to be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal. Section 1 contained 28 articles. Section 2 of the act Feb. 8, 1895, ch. 64, prescribed a fine for violations of the act. Section 3 of the act Feb. 8, 1895, ch. 64, gave the Secretary of the Treasury authority to establish all necessary regulations not inconsistent with the act, necessary to carry the act into effect, and gave the Board of Supervising Inspectors of the United States authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the act, as they should from time to time deem necessary, and provided that the regulations so adopted, when approved by the Secretary of the Treasury, should have the force of law. Section 4 of the act Feb. 8, 1895, ch. 64, repealed all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the rules promulgated by the act.

The rules prescribed by R.S. § 4233, and by R.S. §§ 4412, 4414, and the regulations pursuant thereto, were required to be followed on the harbors, rivers, and inland waters of the United States, and the provisions of said sections were made special rules, duly made by local authority, relative to the navigation of harbors, rivers, and inland waters, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1, by act Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672. Section 2 of the act Feb. 19, 1895, ch. 102, authorized the Secretary of the Treasury to designate and define by the suitable bearing or range with light houses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters. Section 3 of the act Feb. 19, 1895, ch. 102, required collectors or other chief officers of the customs to require sail vessels to be furnished with proper signal lights, and prescribed a penalty to be assessed against vessels navigated without complying with the statutes of the United States, or the regulations lawfully made thereunder. Section 4 of the act Feb. 19, 1895, ch. 102, provided that the words "inland waters" should not be held to include the Great Lakes and their connecting and tributary waters as far east as Montreal, and provided that the act should not modify or affect the provisions of act Feb. 8, 1895, ch. 64, which was the act prescribing rules for preventing collisions to be followed in the navigation of all public and private vessels upon the Great Lakes and their connecting and tributary waters as far east as Montreal.

The rules prescribed by R.S. § 4233, were further superseded as to the navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, by act June 7, 1897, ch. 4, 30 Stat. 96, section 1 of which enacted a set of regulations for preventing collisions, to be followed by all vessels navigating all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries. Said section 1 consisted of 31 articles. Section 2 of the act June 7, 1897, ch. 4, authorized the supervising inspectors of steam-vessels and the Supervising Inspector-General to establish rules to be observed by steam vessels in passing each other and as to the lights to be carried by ferry-boats and by barges and canal-boats, when in tow of steam-vessels, not inconsistent with the provisions of the act, such rules, when approved by the Secretary of the Treasury, to be special rules duly made by local authority, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1 which article provided that nothing in the rules contained in that act should interfere with the operation of special rules, duly made by local authority, relative to the navigation of any harbor, river, or inland waters. Section 3 of the act June 7, 1897, ch. 4, prescribed a penal-

ty for violations of the provisions of the act or the regulations established pursuant to section 2. Section 4 of the act June 7, 1897, ch. 4, also prescribed a penalty to be assessed against vessels navigated without compliance with the provisions of the act. Section 5 of the act June 7, 1897, ch. 4, repealed R.S. §§ 4233, 4412 (with the regulations made in pursuance thereof, except the rules and regulations for the government of pilots of steamers navigating the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, and except the rules for the Great Lakes and their connecting and tributary waters as far east as Montreal), § 4413, act March 3, 1893, ch. 202, 27 Stat. 557, which amended R.S. § 4233, act Feb. 19, 1895, ch. 102, §§ 1, 3, and act March 3, 1897, ch. 389, §§ 5, 12, 13, 29 Stat. 689, 690, and all amendments thereto insofar as the harbors, rivers, and inland waters of the United States (except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries) were concerned.

This legislation resulted in the following situation: Navigation on the high seas was governed by act Aug. 19, 1890, ch. 802, with its amendatory and supplementary acts, which was superseded by act Oct. 11, 1951, ch. 495, formerly set forth in chapter 2 of this title; navigation on all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, is governed by act June 7, 1897, ch. 4, as amended, set forth in chapter 3 of this title; navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal is governed by act Feb. 8, 1895, ch. 64, set forth in section 301 et seq. of this title; and navigation on the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries is governed by R.S. § 4233, as amended and supplemented, set forth in section 301 et seq. of this title.

See also Codification notes to sections 154, 241, and 301 of this title.

Regulations for Preventing Collisions at Sea, 1948, approved by the International Conference on Safety of Life at Sea, 1948, covering substantially the same subject matter included under these rules, were set out as sections 143 to 147d of this title.

Regulations for Preventing Collisions at Sea, 1960, approved by the International Conference on the Safety of Life at Sea, 1960, covering substantially the same subject matter included under these rules, were set out as sections 1051 to 1094 of this title.

International Convention for Safety of Life at Sea, 1948

The convention, known as the International Convention for Safety of Life at Sea, was signed at London on June 10, 1948, and was ratified by the United States on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H.R. 5013, 82nd Cong.). The "International Regulations for Preventing Collisions at Sea, 1948", approved by the 1948 London conference, were adopted by section 6 of act Oct. 11, 1951, and were classified to section 144 et seq. of this title.

International Convention for the Safety of Life at Sea, 1960

The convention, known as the International Convention for the Safety of Life at Sea, was signed at London on June 17, 1960, and was ratified by the United States on May 26, 1965 (see Senate Report No. 477, Aug. 30, 1963, to accompany H.R. 6012, 88th Cong.). The "Regulations for Preventing Collisions at Sea, 1960", approved by the 1960 London conference, were adopted by section 4 of Pub. L. 88-131, Sept. 24, 1963, 77 Stat. 194, and were classified to section 1051 et seq. of this title.

International Regulations for Preventing Collisions at Sea, 1972

The Convention on the International Regulations for Preventing Collisions at Sea, 1972, was proclaimed by the President on Jan. 19, 1977. The President's proclamation, set out as a note below, provided that the Convention enter into force for the United States on July 15, 1977. The proclamation and the International Regulations were published in the Federal Register on Mar. 31, 1977, 42 F.R. 17112, with corrections to the International Regulations published on Apr. 7, 1977, 42 F.R. 18401 and on Apr. 21, 1977, 42 F.R. 20625. The International Regulations For Preventing Collisions At Sea, 1972, read as follows:

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

PART A—GENERAL

Rule 1—Application

(a) These Rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.

(b) Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. Such special rules shall conform as closely as possible to these Rules.

(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any State with respect to additional station or signal lights or whistle signals for ships of war and vessels proceeding under convoy, or with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. These additional station or signal lights or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light or signal authorized elsewhere under these Rules.

(d) Traffic separation schemes may be adopted by the Organization for the purpose of these Rules.

(e) Whenever the Government concerned shall have determined that a vessel of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel, such vessel shall comply with such other provisions in regard to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, as her Government shall have determined to be the closest possible compliance with these Rules in respect to that vessel.

Rule 2—Responsibility

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

Rule 3—General Definitions

For the purpose of these Rules, except where the context otherwise requires:

(a) The word "vessel" includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(b) The term "power-driven vessel" means any vessel propelled by machinery.

(c) The term "sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(d) The term "vessel engaged in fishing" means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict manoeuvrability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict manoeuvrability.

(e) The word "seaplane" includes any aircraft designed to manoeuvre on the water.

(f) The term "vessel not under command" means a vessel which through some exceptional circumstance is unable to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.

(g) The term "vessel" restricted in her ability to manoeuvre" means a vessel which from the nature of her work is restricted in her ability to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.

The following vessels shall be regarded as vessels restricted in their ability to manoeuvre:

(i) A vessel engaged in laying, servicing or picking up a navigation mark, submarine cable or pipeline;

(ii) A vessel engaged in dredging, surveying or underwater operations;

(iii) A vessel engaged in replenishment or transferring persons, provisions or cargo while underway;

(iv) A vessel engaged in the launching or recovery of aircraft;

(v) A vessel engaged in minesweeping operations;

(vi) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The term "vessel constrained by her draught" means a power-driven vessel which because of her draught in relation to the available depth of water is severely restricted in her ability to deviate from the course she is following.

(i) The word "underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

(j) The words "length" and "breadth" of a vessel mean her length overall and greatest breadth.

(k) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

(l) The term "restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar causes.

PART B—STEERING AND SAILING RULES

SECTION I—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

Rule 4—Application

Rules in this section apply in any condition of visibility.

Rule 5—Look-out

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 6—Safe Speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) The state of visibility;

(ii) The traffic density including concentrations of fishing vessels or any other vessels;

(iii) the manoeuvrability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) At night the presence of background light such as from shore lights or from back scatter of her own lights;

(v) The state of wind, sea and current, and the proximity of navigational hazards;

(vi) The draught in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(i) The characteristics, efficiency and limitations of the radar equipment;

(ii) Any constraints imposed by the radar range scale in use;

(iii) The effect on radar detection of the sea state, weather and other sources of interference;

(iv) The possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) The number, location and movement of vessels detected by radar;

(vi) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

Rule 7—Risk of Collision

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change;

(ii) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

Rule 8—Action to avoid collision

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(b) Any alteration of course and/or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course and/or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

Rule 9—Narrow channels

(a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(b) A vessel of less than 20 metres in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within such channel or fairway. The latter vessel may use the sound signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e)(i) In a narrow channel or fairway when overtaking can take place only if the vessel to be overtaken has to take action to permit safe passing, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c)(i). The vessel to be overtaken shall, if in agreement, sound the appropriate signal prescribed in Rule 34(c)(ii) and take steps to permit safe passing. If in doubt she may sound the signals prescribed in Rule 34(d).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

Rule 10—Traffic separation schemes

(a) This Rule applies to traffic separation schemes adopted by the Organization.

(b) A vessel using a traffic separation scheme shall:

(i) Proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

(ii) So far as practicable keep clear of a traffic separation line or separation zone;

(iii) Normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from the side shall do so at as small an angle to the general direction of traffic flow as practicable.

(c) A vessel shall so far as practicable avoid crossing traffic lanes, but if obliged to do so shall cross as nearly as practicable at right angles to the general direction of traffic flow.

(d) Inshore traffic zones shall not normally be used by through traffic which can safely use the appropriate traffic lane within the adjacent traffic separation scheme.

(e) A vessel, other than a crossing vessel, shall not normally enter a separation zone or cross a separation line except:

(i) in cases of emergency to avoid immediate danger;

(ii) to engage in fishing within a separation zone.

(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

(j) A vessel of less than 20 metres in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

SECTION II—CONDUCT OF VESSELS IN SIGHT OF ONE ANOTHER

Rule 11—Application

Rules in this Section apply to vessels in sight of one another.

Rule 12—Sailing vessels

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(i) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(ii) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward;

(iii) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purposes of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

Rule 13—Overtaking

(a) Notwithstanding anything contained in the Rules of this Section any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

Rule 14—Head-on situation

(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line and/or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

Rule 15—Crossing situation

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

Rule 16—Action by give-way vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

Rule 17—Action by stand-on vessel

(a)(i) Where one of two vessels is to keep out of the way the other shall keep her course and speed.

(ii) The latter vessel may however take action to avoid collision by her manoeuvre alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with sub-paragraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

Rule 18—Responsibilities between vessels

Except where Rules 9, 10 and 13 otherwise require:

(a) A power-driven vessel underway shall keep out of the way of: (i) A vessel not under command;

(ii) A vessel restricted in her ability to manoeuvre;

(iii) A vessel engaged in fishing;

(iv) A sailing vessel.

(b) A sailing vessel underway shall keep out of the way of: (i) A vessel not under command;

(ii) A vessel restricted in her ability to manoeuvre;

(iii) A vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

(i) A vessel not under command;

(ii) A vessel restricted in her ability to manoeuvre.

(d) (i) Any vessel other than a vessel not under command or a vessel restricted in her ability to manoeuvre shall, if the circumstances of the case admit, avoid impeding the safe passage of a vessel constrained by her draught, exhibiting the signals in Rule 28.

(ii) A vessel constrained by her draught shall navigate with particular caution having full regard to her special condition.

(e) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

SECTION III—CONDUCT OF VESSELS IN RESTRICTED VISIBILITY

Rule 19—Conduct of vessels in restricted visibility

(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate manoeuvre.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with the Rules of Section I of this Part.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing and/or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(i) An alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken;

(ii) An alteration of course toward a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on her course. She shall if necessary take all her way off and in any event navigate with extreme caution until danger of collision is over.

PART C—LIGHTS AND SHAPES

Rule 20—Application

(a) Rules in this Part shall be complied with in all weathers.

(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out.

(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The Rules concerning shapes shall be complied with by day.

(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I to these Regulations.

Rule 21—Definitions

(a) "Masthead light" means a white light placed over the fore and aft centreline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel.

(b) "Sidelights" means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. In a vessel of less than 20 metres in length the sidelights may be combined in one lantern carried on the fore and aft centreline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this Rule.

(e) "All round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

Rule 22—Visibility of lights

The lights prescribed in these Rules shall have an intensity as specified in Section 8 of Annex I to these Regulations so as to be visible at the following minimum ranges:

(a) In vessels of 50 metres or more in length: A masthead light, 6 miles; A sidelight, 3 miles; A sternlight, 3 miles; A towing light, 3 miles; and A white, red, green or yellow all-round light, 3 miles.

(b) In vessels of 12 metres or more in length but less than 50 meteres in length:

A masthead light, 5 miles; except that where the length of the vessel is less than 20 metres, 3 miles;

A sidelight, 2 miles;

A sternlight, 2 miles;

A towing light, 2 miles; and

A white, red, green or yellow all-round light, 2 miles.

(c) In vessels of less than 12 metres in length:

A masthead light, 2 miles;
A sidelight, 1 mile;
A sternlight, 2 miles;
A towing light, 2 miles; and
A white, red, green or yellow all-round light, 2 miles.

Rule 23—Power-driven vessels underway

(a) A power-driven vessel underway shall exhibit:
(i) A masthead light forward;
(ii) A second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 metres in length shall not be obliged to exhibit such light but may do so;
(iii) Sidelights; and
(iv) A sternlight
(b) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light.
(c) A power-driven vessel of less than 7 metres in length and whose maximum speed does not exceed 7 knots may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light. Such vessel shall, if practicable, also exhibit sidelights.

Rule 24—Towing and pushing

(a) A power-driven vessel when towing shall exhibit: (i) Instead of the light prescribed in Rule 23(a)(i), two masthead lights forward in a vertical line. When the length of the tow measuring from the stern of the towing vessel to the after end of the tow exceeds 200 metres, three such lights in a vertical line;
(ii) Sidelights;
(iii) A sternlight;
(iv) A towing light in a vertical line above the sternlight; and
(v) When the length of the tow exceeds 200 metres, a diamond shape where it can best be seen.
(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.
(c) A power-driven vessel when pushing ahead or towing alongside, except in the case of a composite unit, shall exhibit:
(i) Instead of the light prescribed in Rule 23(a)(i), two masthead lights forward in a vertical line;
(ii) Sidelights; and
(iii) A sternlight.
(d) A power-driven vessel to which paragraphs (a) and (c) of this Rule apply shall also comply with Rule 23(a)(ii).
(e) A vessel or object being towed shall exhibit: (i) Sidelights;
(ii) A sternlight;
(iii) When the length of the tow exceeds 200 metres, a diamond shape where it can best be seen.
(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, (i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights; (ii) A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights.
(g) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

Rule 25—Sailing Vessels Underway and Vessels under Oars

(a) A sailing vessel underway shall exhibit: (i) Sidelights;
(ii) A sternlight.
(b) In a sailing vessel of less than 12 metres in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.
(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.
(d)(i) A sailing vessel of less than 7 metres in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.
(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.
(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downwards.

Rule 26—Fishing vessels

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.
(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:
(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 metres in length may instead of this shape exhibit a basket;
(ii) A masthead light abaft of and higher than the all-round green light; a vessel of less than 50 metres in length shall not be obliged to exhibit such a light but may do so;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
(c) A vessel engaged in fishing, other than trawling, shall exhibit: (i) Two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 metres in length may instead of this shape exhibit a basket;
(ii) When there is outlying gear extending more than 150 metres horizontally from the vessel, an all-round white light or a cone apex upwards in the direction of the gear;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
(d) A vessel engaged in fishing in close proximity to other vessels engaged in fishing may exhibit the additional signals described in Annex II to these Regulations.
(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

Rule 27—Vessels not under command or restricted in their ability to manoeuvre

(a) A vessel not under command shall exhibit: (i) Two all-round red lights in a vertical line where they can best be seen;
(ii) Two balls or similar shapes in a vertical line where they can best be seen;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to manoeuvre, except a vessel engaged in mine-sweeping operations, shall exhibit: (i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(iii) When making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (i);

(iv) When at anchor, in addition to the lights or shapes prescribed in sub-paragraphs (i) and (ii), the light, lights or shape prescribed in Rule 30.

(c) A vessel engaged in a towing operation such as renders her unable to deviate from her course shall, in addition to the lights or shapes prescribed in subparagraph (b)(i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24(a).

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to manoeuvre, shall exhibit the lights and shapes prescribed in paragraph (b) of this Rule and shall in addition, when an obstruction exists, exhibit: (i) Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(ii) Two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass;

(iii) When making way through the water, in addition to the lights prescribed in this paragraph, masthead lights, sidelights and a sternlight;

(iv) A vessel to which this paragraph applies when at anchor shall exhibit the lights or shapes prescribed in sub-paragraphs (i) and (ii) instead of the lights or shape prescribed in Rule 30.

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit the shapes prescribed in paragraph (d) of this Rule, a rigid replica of the International Code flag "A" not less than 1 metre in height shall be exhibited. Measures shall be taken to ensure all-round visibility.

(f) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited at or near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 metres astern or 500 metres on either side of the minesweeper.

(g) Vessels of less than 7 metres in length shall not be required to exhibit the lights prescribed in this Rule.

(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Regulations.

Rule 28—Vessels constrained by their draught

A vessel constrained by her draught may, in addition to the lights prescribed for power-driven vessels in Rule 23, exhibit where they can best be seen three all-round red lights in a vertical line, or a cylinder.

Rule 29—Pilot vessels

(a) A vessel engaged on pilotage duty shall exhibit: (i) At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(ii) when underway, in addition, sidelights and a sternlight;

(iii) when at anchor, in addition to the lights prescribed in sub-paragraph (i), the anchor light, lights or shape.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a similar vessel of her length.

Rule 30—Anchored vessels and vessels aground

(a) A vessel at anchor shall exhibit where it can best be seen: (i) In the fore part, an all-round white light or one ball;

(ii) At or near the stern and at a lower level than the light prescribed in sub-paragraph (i), an all-round white light.

(b) A vessel of less than 50 metres in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 metres and more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, where they can best be seen: (i) Two all-round red lights in a vertical line;

(ii) Three balls in a vertical line.

(e) A vessel of less than 7 metres in length, when at anchor or aground, not in or near a narrow channel, fairway or anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shapes prescribed in paragraphs (a), (b) or (d) of this Rule.

Rule 31—Seaplanes

Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

PART D—SOUND AND LIGHT SIGNALS

Rule 32—Definitions

(a) The word "whistle" means any sound signalling appliance capable of producing the prescribed blasts and which complies with the specifications in Annex III to these Regulations.

(b) The term "short blast" means a blast of about one second's duration.

(c) The term "prolonged blast" means a blast of from four to six seconds' duration.

Rule 33—Equipment for sound signals

(a) A vessel of 12 metres or more in length shall be provided with a whistle and a bell and a vessel of 100 metres or more in length shall, in addition be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Regulations. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the required signals shall always be possible.

(b) A vessel of less than 12 metres in length shall not be obliged to carry the sound signalling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

Rule 34—Manoeuvring and warning signals

(a) When vessels are in sight of one another, a power-driven vessel underway, when manoeuvring as authorized or required by these Rules, shall indicate that manoeuvre by the following signals on her whistle:

One short blast to mean "I am altering my course to starboard";

Two short blasts to mean "I am altering my course to port";

Three short blasts to mean "I am operating astern propulsion".

(b) Any vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light sig-

nals, repeated as appropriate, whilst the manoeuvre is being carried out:

(i) These light signals shall have the following significance:

One flash to mean "I am altering my course to starboard";

Two flashes to mean "I am altering my course to port";

Three flashes to mean "I am operating astern propulsion";

(ii) The duration of each flash shall be about one second, the interval between flashes shall be about one second, and the interval between successive signals shall be not less than ten seconds;

(iii) The light used for this signal shall, if fitted, be an all-round white light, visible at a minimum range of 5 miles, and shall comply with the provisions of Annex I.

(c) When in sight of one another in a narrow channel or fairway:

(i) A vessel intending to overtake another shall in compliance with Rule 9(e)(i) indicate her intention by the following signals on her whistle:

Two prolonged blasts followed by one short blast to mean "I intend to overtake you on your starboard side";

Two prolonged blasts followed by two short blasts to mean "I intend to overtake you on your port side".

(ii) The vessel about the be overtaken when acting in accordance with Rule 9(e)(i) shall indicate her agreement by the following signal on her whistle:

One prolonged, one short, one prolonged and one short blast, in that order.

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. Such signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. Such signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) If whistles are fitted on a vessel at a distance apart of more than 100 metres, one whistle only shall be used for giving manoeuvring and warning signals.

Rule 35—Sound signals in restricted visability

In or near an area of restricted visability, whether by day or night, the signals prescribed in this Rule shall be used as follows:

(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

(b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

(c) A vessel not under command, a vessel restricted in her ability to manoeuvre, a vessel constrained by her draught, a sailing vessel, a vessel engaged in fishing and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes three blasts in succession, namely one prolonged followed by two short blasts.

(d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

(f) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about 5 seconds. In a vessel of 100 metres or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(h) A vessel of less than 12 metres in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

Rule 36—Signals to attract attention

If necessary to attract the attention of another vessel any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

Rule 37—Distress signals

When a vessel is in distress and requires assistance she shall use or exhibit the signals prescribed in Annex IV to these Regulations.

PART E—EXEMPTIONS

Rule 38—Exemptions

Any vessel (or class of vessels) provided that she complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960, the keel of which is laid or which is at a corresponding stage of construction before the entry into force of these Regulations may be exempted from compliance therewith as follows:

(a) The installation of lights with ranges prescribed in Rule 22, until four years after the date of entry into force of these Regulations.

(b) The installation of lights with colour specifications as prescribed in Section 7 of Annex I to these Regulations, until four years after the date of entry into force of these Regulations.

(c) The repositioning of lights as a result of conversion from Imperial to metric units and rounding off measurement figures, permanent exemption.

(d) (i) The repositioning of masthead lights on vessels of less than 150 metres in length, resulting from the prescriptions of Section 3(a) of Annex I, permanent exemption.

(ii) The repositioning of masthead lights on vessels of 150 metres or more in length, resulting from the prescriptions of Section 3(a) of Annex I to these Regulations, until nine years after the date of entry into force of these Regulations.

(e) The repositioning of masthead lights resulting from the prescriptions of Section 2(b) of Annex I,

until nine years after the date of entry into force of these Regulations.

(f) The repositioning of sidelights resulting from the prescriptions of Sections 2(g) and 3(b) of Annex I, until nine years after the date of entry into force of these Regulations.

(g) The requirements for sound signal appliances prescribed in Annex III, until nine years after the date of entry into force of these Regulations.

ANNEX I

POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

1. *Definition.* The term "height above the hull" means height above the uppermost continuous deck.

2. *Vertical positioning and spacing of lights.* (a) On a power-driven vessel of 20 metres or more in length the masthead lights shall be placed as follows:

(i) the forward masthead light, or if only one masthead light is carried, then that light, at a height above the hull of not less than 6 metres, and, if the breadth of the vessel exceeds 6 metres, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 12 metres;

(ii) when two masthead lights are carried the after one shall be at least 4.5 metres vertically higher than the forward one.

(b) The vertical separation of masthead lights of power-driven vessels shall be such that in all normal conditions of trim the after light will be seen over and separate from the forward light at a distance of 1000 metres from the stem when viewed from sea level.

(c) The masthead light of a power-driven vessel of 12 metres but less than 20 metres in length shall be placed at a height above the gunwale of not less than 2.5 metres.

(d) A power-driven vessel of less than 12 metres in length may carry the uppermost light at a height of less than 2.5 metres above the gunwale. When however a masthead light is carried in addition to sidelights and a sternlight, then such masthead light shall be carried at least 1 metre higher than the sidelights.

(e) One of the two or three masthead lights prescribed for a power-driven vessel when engaged in towing or pushing another vessel shall be placed in the same position as the forward masthead light of a power-driven vessel.

(f) In all circumstances the masthead light or lights shall be so placed as to be above and clear of all other lights and obstructions.

(g) The sidelights of a power-driven vessel shall be placed at a height above the hull not greater than three quarters of that of the forward masthead light. They shall not be so low as to be interfered with by deck lights.

(h) The sidelights, if in a combined lantern and carried on a power-driven vessel of less than 20 metres in length, shall be placed not less than 1 metre below the masthead light.

(i) When the Rules prescribe two or three lights to be carried in a vertical line, they shall be spaced as follows:

(i) On a vessel of 20 metres in length or more such lights shall be spaced not less than 2 metres apart, and the lowest of these lights shall, except where a towing light is required, not be less than 4 metres above the hull;

(ii) On a vessel of less than 20 metres in length such lights shall be spaced not less than 1 metre apart and the lowest of these lights shall, except where a towing light is required, not be less than 2 metres above the gunwale;

(iii) When three lights are carried they shall be equally spaced.

(j) The lower of the two all-round lights prescribed for a fishing vessel when engaged in fishing shall be at a height above the sidelights not less than twice the distance between the two vertical lights.

(k) The forward anchor light, when two are carried, shall not be less than 4.5 metres above the after one. On a vessel of 50 metres or more in length this forward anchor light shall not be less than 6 metres above the hull.

3. *Horizontal positioning and spacing of lights.* (a) When two masthead lights are prescribed for a power-driven vessel, the horizontal distance between them shall not be less than one half of the length of the vessel but need not be more than 100 metres. The forward light shall be placed not more than one quarter of the length of the vessel from the stem.

(b) On a vessel of 20 metres or more in length the sidelights shall not be placed in front of the forward masthead lights. They shall be placed at or near the side of the vessel.

4. *Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations.* (a) The light indicating the direction of the outlying gear from a vessel engaged in fishing as prescribed in Rule 26(c)(ii) shall be placed at a horizontal distance of not less than 2 metres and not more than 6 metres away from the two all-round red and white lights. This light shall be placed not higher than the all-round white light prescribed in Rule 26(c)(i) and not lower than the sidelights.

(b) The lights and shapes on a vessel engaged in dredging or underwater operations to indicate the obstructed side and/or the side on which it is safe to pass, as prescribed in Rule 27(d)(i) and (ii), shall be placed at the maximum practical horizontal distance, but in no case less than 2 metres, from the lights or shapes prescribed in Rule 27(b)(i) and (ii). In no case shall the upper of these lights or shapes be at a greater height than the lower of the three lights or shapes prescribed in Rule 27(b)(i) and (ii).

5. *Screens for sidelights.* The sidelights shall be fitted with inboard screens painted matt black, and meeting the requirements of Section 9 of this Annex. With a combined lantern, using a single vertical filament and a very narrow division between the green and red sections, external screens need not be fitted.

6. *Shapes.* (a) Shapes shall be black and of the following sizes:

(i) A ball shall have a diameter of not less than 0.6 metre;

(ii) A cone shall have a base diameter of not less than 0.6 metre and a height equal to its diameter;

(iii) A cylinder shall have a diameter of at least 0.6 metre and a height of twice its diameter;

(iv) A diamond shape shall consist of two cones as defined in (ii) above having a common base.

(b) The vertical distance between shapes shall be at least 1.5 metre.

(c) In a vessel of less than 20 metres in length shapes of lesser dimensions but commensurate with the size of the vessel may be used and the distance apart may be correspondingly reduced.

7. *Colour specification of lights.* The chromaticity of all navigation lights shall conform to the following standards, which lie within the boundaries of the area of the diagram specified for each colour by the International Commission on Illumination (CIE).

The boundaries of the area for each colour are given by indicating the corner co-ordinates, which are as follows:

(i) *White:*

x=0.525, 0.525, 0.452, 0.310, 0.310, 0.443.

y=0.382, 0.440, 0.440, 0.348, 0.283, 0.382.

(ii) *Green:*

x=0.028, 0.009, 0.300, 0.203.

y=0.385, 0.723, 0.511, 0.356.

(iii) *Red:*

x=0.680, 0.660, 0.735, 0.721

y=0.320, 0.320, 0.265, 0.259.

(iv) *Yellow:*
x=0.612, 0.618, 0.575, 0.575.
y=0.382, 0.382, 0.425, 0.406.

8. *Intensity of lights.* (a) The minimum luminous intensity of lights shall be calculated by using the formula:

$$I=3.43\times10^{6}\times T\times D^{2}\times K^{-D}$$

where I is luminous intensity in candelas under service conditions,

T is threshold factor 2×10^{-7} lux, D is range of visibility (luminous range) of the light in nautical miles, K is atmospheric transmissivity.

For prescribed lights the value of K shall be 0.8, corresponding to a meteorological visibility of approximately 13 nautical miles.

(b) A selection of figures derived from the formula is given in the following table:

Range of visibility (luminous range) of light in nautical miles, *D*:	*Luminous intensity of light in candelas for K=0.8, I*
1	0.9
2	4.3
3	12
4	27
5	52
6	94

NOTE.—The maximum luminous intensity of navigation lights should be limited to avoid undue glare.

9. *Horizontal sectors.* (a)(i) In the forward direction, sidelights as fitted on the vessel must show the minimum required intensities. The intensities must decrease to reach practical cut-off between 1 degree and 3 degrees outside the prescribed sectors.

(ii) For sternlights and masthead lights and at 22.5 degrees abaft the beam for sidelights, the minimum required intensities shall be maintained over the arc of the horizon up to 5 degrees within the limits of the sectors prescribed in Rule 21. From 5 degrees within the prescribed sectors the intensity may decrease by 50 per cent up to the prescribed limits; it shall decrease steadily to reach practical cut-off at not more than 5 degrees outside the prescribed limits.

(b) All-round lights shall be so located as not to be obscured by masts, topmasts or structures within angular sectors of more than 6 degrees, except anchor lights, which need not be placed at an impracticable height above the hull.

10. *Vertical sectors.* (a) The vertical sectors of electric lights, with the exception of lights on sailing vessels shall ensure that:

(i) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(ii) At least 60 percent of the required minimum intensity is maintained from 7.5 degrees above to 7.5 degrees below the horizontal.

(b) In the case of sailing vessels the vertical sectors of electric lights shall ensure that:

(i) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(ii) At least 50 percent of the required minimum intensity is maintained from 25 degrees above to 25 degrees below the horizontal.

(c) In the case of lights other than electric these specifications shall be met as closely as possible.

11. *Intensity of non-electric lights.* Non-electric lights shall so far as practicable comply with the minimum intensities, as specified in the Table given in Section 8 of this Annex.

12. *Manoeuvring light.* Notwithstanding the provisions of paragraph 2(f) of this Annex the manoeuvring light described in Rule 34(b) shall be placed in the same fore and aft vertical plane as the masthead light or lights and, where practicable, at a minimum height of 2 metres vertically above the forward masthead light, provided that it shall be carried not less than 2 metres vertically above or below the after masthead light. On a vessel where only one masthead light is carried the manoeuvring light, if fitted, shall be carried where it can best be seen, not less than 2 metres vertically apart from the masthead light.

13. *Approval.* The construction of lanterns and shapes and the installation of lanterns on board the vessel shall be to the satisfaction of the appropriate authority of the State where the vessel is registered.

ANNEX II

ADDITIONAL SIGNALS FOR FISHING VESSELS FISHING IN CLOSE PROXIMITY

1. *General.* The lights mentioned herein shall, if exhibited in pursuance of Rule 26(d), be placed where they can best be seen. They shall be at least 0.9 metre apart but at a lower level than lights prescribed in Rule 26 (b)(i) and (c)(i). The lights shall be visible all round the horizon at a distance of at least 1 mile but at a lesser distance than the lights prescribed by these Rules for fishing vessels.

2. *Signals for Trawlers.* (a) Vessels when engaged in trawling, whether using demersal or pelagic gear, may exhibit:

(i) When shooting their nets: two white lights in a vertical line;

(ii) When hauling their nets: one white light over one red light in a vertical line;

(iii) When the net has come fast upon an obstruction: two red lights in a vertical line.

(b) Each vessel engaged in pair trawling may exhibit:

(i) By night, a searchlight directed forward and in the direction of the other vessel of the pair;

(ii) When shooting or hauling their nets or when their nets have come fast upon an obstruction, the lights prescribed in 2(a) above.

3. *Signals for purse seiners.* Vessels engaged in fishing with purse seine gear may exhibit two yellow lights in a vertical line. These lights shall flash alternately every second and with equal light and occultation duration. These lights may be exhibited only when the vessel is hampered by its fishing gear.

ANNEX III

TECHNICAL DETAILS OF SOUND SIGNAL APPLIANCES

1. *Whistles.* (a) *Frequencies and range of audibility.*—The fundamental frequency of the signal shall lie within the range 70–700 Hz.

The range of audibility of the signal from a whistle shall be determined by those frequencies, which may include the fundamental and/or one or more higher frequencies, which lie within the range 180–700 Hz (±1 percent) and which provide the sound pressure levels specified in paragraph 1(c) below.

(b) *Limits of fundamental frequencies.* To ensure a wide variety of whistle characteristics, the fundamental frequency of a whistle shall be between the following limits:

(i) 70–200 Hz, for a vessel 200 metres or more in length;

(ii) 130–350 Hz, for a vessel 75 metres but less than 200 metres in length;

(iii) 250–700 Hz, for a vessel less than 75 metres in length.

(c) *Sound signal intensity and range of audibility.* A whistle fitted in a vessel shall provide, in the direction of maximum intensity of the whistle and at a distance of 1 metre from it, a sound pressure level in at least one ⅓rd-octave band within the range of frequencies 180–700 Hz (±1 percent) of not less than the appropriate figure given in the table below.

Length of vessel in meters	⅓-octave band level at 1 meter in dB referred to 2×10^{-5} N/m²	Audibility range in nautical miles
200 or more	143	2.0
75 but less than 200	138	1.5
20 but less than 75	130	1.0
Less than 20	120	0.5

The range of audibility in the table above is for information and is approximately the range at which a whistle may be heard on its forward axis with 90 percent probability in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centred on 250 Hz and 63 dB in the octave band centred on 500 Hz).

In practice the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listening post the range may be much reduced.

(d) *Directional properties.* The sound pressure level of a directional whistle shall be not more than 4 dB below the sound pressure level on the axis at any direction in the horizontal plane within ±45 degrees of the axis. The sound pressure level at any other direction in the horizontal plane shall be not more than 10 dB below the sound pressure level on the axis, so that the range in any direction will be at least half the range on the forward axis. The sound pressure level shall be measured in that ⅓rd-octave band which determines the audibility range.

(e) *Positioning of whistles.* When a directional whistle is to be used as the only whistle on a vessel, it shall be installed with its maximum intensity directed straight ahead.

A whistle shall be placed as high as practicable on a vessel, in order to reduce interception of the emitted sound by obstructions and also to minimize hearing damage risk to personnel. The sound pressure level of the vessel's own signal at listening posts shall not exceed 110 dB (A) and so far as practicable should not exceed 100 dB (A).

(f) *Fitting of more than one whistle.* If whistles are fitted at a distance apart of more than 100 metres, it shall be so arranged that they are not sounded simultaneously.

(g) *Combined whistle systems.* If due to the presence of obstructions the sound field of a single whistle or of one of the whistles referred to in paragraph 1(f) above is likely to have a zone of greatly reduced signal level, it is recommended that a combined whistle system be fitted so as to overcome this reduction. For the purposes of the Rules a combined whistle system is to be regarded as a single whistle. The whistles of a combined system shall be located at a distance apart of not more than 100 metres and arranged to be sounded simultaneously. The frequency of any one whistle shall differ from those of the others by at least 10Hz.

2. *Bell or gong.* (a) *Intensity of signal.*—A bell or gong, or other device having similar sound characteristics shall produce a sound pressure level of not less than 110 dB at 1 metre.

(b) *Construction.* Bells and gongs shall be made of corrosion-resistant material and designed to give a clear tone. The diameter of the mouth of the bell shall be not less than 300 mm for vessels of more than 20 metres in length, and shall be not less than 200 mm for vessels of 12 to 20 metres in length. Where practicable, a power-driven bell striker is recommended to ensure constant force but manual operation shall be possible. The mass of the striker shall be not less than 3 percent of the mass of the bell.

3. *Approval.* The construction of sound signal appliances, their performance and their installation on board the vessel shall be to the satisfaction of the appropriate authority of the State where the vessel is registered.

ANNEX IV

DISTRESS SIGNALS

1. The following signals, used or exhibited either together or separately, indicate distress and need of assistance:

(a) A gun or other explosive signal fired at intervals of about a minute;

(b) A continuous sounding with any fog-signalling apparatus;

(c) Rockets or shells, throwing red stars fired one at a time at short intervals;

(d) A signal made by radiotelegraphy or by any other signalling method consisting of the group . . .— — . . .(SOS) in the Morse Code;

(e) A signal sent by radiotelephony consisting of the spoken word "Mayday";

(f) The International Code Signal of distress indicated by N.C.;

(g) A signal consisting of a square flag having above or below it a ball or anything resembling a ball;

(h) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.)

(i) A rocket parachute flare or a hand flare showing a red light;

(j) A smoke signal giving off orange-coloured smoke;

(k) Slowly and repeatedly raising and lowering arms outstretched to each side;

(l) The radiotelegraph alarm signal;

(m) The radiotelephone alarm signal;

(n) Signals transmitted by emergency position-indicating radio beacons.

2. The use or exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

3. Attention is drawn to the relevant sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual and the following signals:

(a) A piece of orange-coloured canvas with either a black square and circle or other appropriate symbol (for identification from the air);

(b) A dye marker

Ex. Ord. No. 11964. Implementation of Convention on the International Regulations for Preventing Collisions at Sea, 1972

Ex. Ord. No. 11964, Jan. 19, 1977, 42 F.R. 4327, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, and as President of the United States of America and Commander-in-Chief of the Armed Forces, in order to provide for the coming into force on July 15, 1977, of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Senate Executive W, 93d Cong., 1st Sess.), it is hereby ordered as follows:

Section 1. (a) With respect to vessels of special construction or purpose, the Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, shall determine and certify, in accord with Rule I of the International Regulations for Preventing Collisions at Sea, 1972, hereinafter referred to as the International Regulations, as to which such vessels cannot comply fully with the provisions of any of the International Regulations with respect to the number, positions, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel.

(b) With respect to vessels for which a certification is issued, the Secretary issuing the certification shall

certify as to such other provisions which are the closest possible compliance by that vessel with the International Regulations.

(c) Notice of any certification issued shall be published in the FEDERAL REGISTER.

SEC. 2. The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, including the provisions of Title 14 of the United States Code, to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. In accord with Rule I of the International Regulations, the additional station or signal lights or whistle signals contained in the special rules shall be, as far as possible, such as they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules for fishing vessels shall be published in the FEDERAL REGISTER.

SEC. 3. The Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, are authorized to exempt, in accord with Rule 38 of the International Regulations, any vessel or class of vessels, the keel of which is laid, or which is at a corresponding stage of construction, before July 15, 1977, from full compliance with the International Regulations, provided that such vessel or class of vessels complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960. Notice of any exemption granted shall be published in the FEDERAL REGISTER.

SEC. 4. The Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, to promulgate such rules and regulations that are necessary to implement the provisions of the Convention and International Regulations. He shall cause to be published in the FEDERAL REGISTER any implementing regulations or interpretive rulings promulgated pursuant to this Order, and shall promptly publish in the FEDERAL REGISTER the full text of the International Regulations.

GERALD R. FORD.

PROCLAMATION OF JANUARY 19, 1977, RELATING TO THE CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

The proclamation set out below, together with the text of the International Regulations for Preventing Collisions at Sea, 1972, was published in the Federal Register on Mar. 31, 1977, 42 F.R. 17112. The text of the International Regulations for Preventing Collisions at Sea, 1972, are set out above.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Considering that: The Convention on the International Regulations for Preventing Collisions at Sea, 1972, done at London, October 20, 1972, as rectified by the Proces-Verbal of December 1, 1973, a certified copy of which Convention, in the English and French languages, is hereto annexed;

The Senate of the United States of America by its resolution of October 28, 1975, two-thirds of the Senators present concurring therein, gave its advice and consent to the Convention as rectified by the Proces-Verbal;

The Convention as rectified was duly accepted by the President of the United States of America on December 12, 1975, in pursuance of the advice and consent of the Senate;

The United States of America deposited its instrument of acceptance on November 23, 1976, in accordance with the provisions of Article IV of the Convention;

The Convention as rectified will enter into force for the United States of America on July 15, 1977;

Now, therefore, I, Gerald R. Ford, President of the United States of America, proclaim and make public the Convention as rectified, to the end that it shall be observed and fulfilled with good faith on and after July 15, 1977, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this nineteenth day of January in the year of our Lord one thousand nine hundred seventy-seven of the United States of America the two hundred first.

By the President:

GERALD R. FORD.

HENRY A. KISSINGER, *Secretary of State.*

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1603. Vessels subject to International Regulations

Except as provided in section 1604 of this title and subject to the provisions of section 1605 of this title, the International Regulations, as proclaimed under section 1602 of this title, shall be applicable to, and shall be complied with by—

(1) all vessels, public and private, subject to the jurisdiction of the United States, while upon the high seas or in waters connected therewith navigable by seagoing vessels, and

(2) all other vessels when on waters subject to the jurisdiction of the United States.

(Pub. L. 95-75, § 4, July 27, 1977, 91 Stat. 309.)

§ 1604. Vessels not subject to International Regulations; conflicts with laws and regulations of foreign states

(a) The International Regulations shall not be applicable to vessels while—

(1) in the harbors, rivers, and other inland waters of the United States, as defined in section 154 of this title,

(2) in the Great Lakes of North America and their connecting and tributary waters, as defined in section 241 of this title, nor while

(3) in the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, as defined in section 301 of this title.

(b) Whenever a vessel subject to the jurisdiction of the United States is in the territorial waters of a foreign state the International Regulations shall be applicable to, and shall be complied with by, that vessel to the extent that the laws and regulations of the foreign state are not in conflict therewith.

(Pub. L. 95-75, § 5, July 27, 1977, 91 Stat. 309.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1605. Navy and Coast Guard vessels of special construction or purposes

(a) Certification for alternative compliance

Any requirement of the International Regulations with respect to the number, position, range, or arc of visibility of lights, with respect to shapes, or with respect to the disposition and characteristics of sound-signaling appliances, shall not be applicable to a vessel of special construction or purpose, whenever the Secretary of the Navy, for any vessel of the Navy, or the Secretary of the department in which the Coast Guard is operating, for any other vessel of the United States, shall certify that the vessel cannot comply fully with that requirement without interfering with the special function of the vessel.

(b) Closest possible compliance by vessels covered by certification for alternative compliance

Whenever a certification is issued under the authority of subsection (a) of this section, the vessel involved shall comply with the requirement as to which the certification is made to the extent that the Secretary issuing the certification shall certify as the closest possible compliance by that vessel.

(c) Publication of certifications in Federal Register

Notice of the certifications issued pursuant to subsections (a) and (b) of this section shall be published in the FEDERAL REGISTER.

(Pub. L. 95-75, § 6, July 27, 1977, 91 Stat. 309.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1606. Special rules for ships of war, vessels proceeding under convoy, and fishing vessels engaged in fishing as a fleet

(a) The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the department in which the Coast Guard is operating is authorized to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet.

(b) The additional station or signal lights or whistle signals contained in the special rules authorized under subsection (a) of this section shall be, as far as possible, such that they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules shall be published in the FEDERAL REGISTER and, after the effective date specified in such notice, they shall have effect as if they were a part of the International Regulations.

(Pub. L. 95-75, § 7, July 27, 1977, 91 Stat. 310.)

§ 1607. Implementation by rules and regulations; authority to promulgate

The Secretary of the department in which the Coast Guard is operating is authorized to promulgate such reasonable rules and regulations as are necessary to implement the provisions of this chapter and the International Regulations proclaimed hereunder.

(Pub. L. 95-75, § 8, July 27, 1977, 91 Stat. 310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1608 of this title.

§ 1608. Civil penalties

(a) Liability of vessel operator for violations

Whoever operates a vessel, subject to the provisions of this chapter, in violation of this chapter or of any regulation promulgated pursuant to section 1607 of this title, shall be liable to a civil penalty of not more than $500 for each such violation.

(b) Liability of vessel for violations; seizure of vessel

Every vessel subject to the provisions of this chapter, other than a public vessel being used for noncommercial purposes, which is operated in violation of this chapter or of any regulation promulgated pursuant to section 1607 of this title, shall be liable to a civil penalty of $500 for each such violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which such vessel may be found.

(c) Assessment of penalties; notice; opportunity for hearing; remission, mitigation, and compromise of penalty; action for collection

The Secretary of the department in which the Coast Guard is operating may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(Pub. L. 95-75, § 9, July 27, 1977, 91 Stat. 310.)

TITLE 35—PATENTS

This title was enacted by Act July 19, 1952, ch. 950, § 1, 66 Stat. 792

PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

CHAPTER 17—SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS IN FOREIGN COUNTRY

§ 181. Secrecy of certain inventions and withholding of patent

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 188. Rules and regulations, delegation of power

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 4A—AMVETS (AMERICAN VETERANS OF WORLD WAR II, KOREA, AND VIETNAM)

§ 67. Corporation created

The following persons, to wit: Jack W. Hardy, 7421 Beverly Boulevard, Los Angeles, California; Elmo Keel, 4085 Minnesota Avenue Northeast, Washington, District of Columbia; William Enters, suite 1509-1511, 11 South LaSalle Street, Chicago, Illinois; Doctor Gerald I. Cetrulo, 166 Bloomfield Avenue, Newark, New Jersey; Norman Clock, 125 South Fourth Street, Reading, Pennsylvania; Floyd Williams, C-2 704 North Monroe Street, Arlington, Virginia; Reverend Joseph T. O'Callaghan, United States Navy Department, Washington, District of Columbia; George R. Porter, 1730 South Adams Street, Fort Worth, Texas; Robert E. McLaughlin, 800 South Washington Street, Alexandria, Virginia; Ray Sawyer, Plymouth, New Hampshire; James C. Tate, 2 Wilton Road, Rural Free Delivery Numbered 5, Alexandria, Virginia; George E. Burke, 1126 Central Avenue, Saint Petersburg, Florida; A. Ronald Button, 6331 Hollywood Boulevard, Hollywood 28, California; Americus Lamberti, 515 West Seventh Street, Plainfield, New Jersey; Emory S. McNider, Coffeyville, Alabama; Allen Hansen, 815 East Broadway, Tucson, Arizona; Edward S. Shattuck, 1400 North Hobart Boulevard, Los Angeles, California; Elvon L. Howell, 652 Gilpin Street, Denver, Colorado; William N. Welsh, 21 Bristol Street, West Haven, Connecticut; Francis D. Odell, 18 Lawson Avenue, Claymont, Delaware; George Lewis, 125 State Capitol, Atlanta, Georgia; Lee Witaski, 1438 Thorndale Avenue, Chicago, Illinois; Doctor Clyde Iongstreth, Atlantic, Iowa; Harry N. Gillig, Junior, 612 Kansas Avenue, Topeka, Kansas; John H. Ostertag, 955 Charles Street, Louisville, Kentucky; Otto E. Passman, 114-120 Walnut Street, post-office drawer 1833, Monroe, Louisiana; Doctor G. E. Marrone, 610 Fairview Avenue, Frederick, Maryland; Howard J. McDonald, 4 College Street, Lewiston, Maine; Edward J. Beauchamp, 4 College Street, Lewiston, Maine; Albert J. Reynolds, Tremont Temple Building, Boston, Massachusetts; Neil Holland, 401 Charlevoix Building, 2033 Park Avenue, Detroit, Michigan; Monte M. Korn, 18041 Washburn, Detroit, Michigan; Raymond D. Vosburgh, 222½ West Lewis Street, Mankato, Minnesota; George R. Gess, box 47, Mount Olive, Mississippi; Henry W. Simpson, room 500, 119 North Seventh Street, Saint Louis, Missouri; R. C. Letcher, Billings Fire Department, Billings, Montana; Doctor A. D. Faier, 1102 Medical Arts Building, Omaha, Nebraska; Jay J. Strode, Wells, Nevada; N. L. Samaha, C-1, 1 Keeble Street, Plymouth, New Hampshire; William Hepp, 1918 Liberty Bank Building, Buffalo, New York; Huston W. Galyen, 1121 Sixteenth Avenue North, Fargo, North Dakota; Carl Freudenberg, 1298 Michigan Avenue, Cincinnati, Ohio; Fred Milligan, attorney at law, Columbus, Ohio; Joseph D. Stafford, route 2, box 662, Oklahoma City, Oklahoma; Anthony R. McGrath, 609 Plaza Building, Pittsburgh, Pennsylvania; Harry M. DeWitt, Junior, 2316 Fortieth Street Northwest, Washington, District of Columbia; Robert W. Donald, postoffice box 2, Easley, South Carolina; Dick Kelly, Shaw Insurance Company, Sioux Falls, South Dakota; Alex Bullocks, 1464 Washington Street, Memphis, Tennessee; Thomas J. Russell, Burlington, Vermont; John E. Fletcher, 806 North Eye Street, Tacoma, Washington; R. L. Stubbs, Professional Building, Fairmont, West Virginia; Walter L. Thompson, 1316 Lombard, Everett, Washington; Robert A. Garrett, 163 Eccles Building, Ogden, Utah; Searcy Johnson, 805 Mercantile Building, Dallas, Texas; Hampton C. Godbe, 116 P Street, Salt Lake City, Utah; Allen P. Solada, 311 Dauphin Building, Harrisburg, Pennsylvania; George Vukmanic, 221 Martin Avenue, Pittsburgh 16, Pennsylvania; Royce C. Granger, 102 East Eighteenth Street, Tulsa, Oklahoma; Charles E. Nassif, 1023 Thirteenth Street North, Fargo, North Dakota; Paul D. Higgins, 104½ Broadway, Fargo, North Dakota; Edmund P. Radwan, 906 Broadway, Buffalo, New York; Alexander J. Matturria, 234 Mount Prospect Avenue, Newark, New Jersey; J. F. Roche, Bond Building, 1015 Elm Street, Manchester, New Hampshire; Kenneth A. Van Vorst, 114 East Bonanza Road, Las Vegas, Nevada; Julian C. Harvey, 1731 Walnut Street, Kansas City, Missouri; John Wesley, box 482, Picayune, Mississippi; Claude C. Morgan, 810 Hammond Building, Detroit, Michigan; Edward A. Trudell, 26 Horan Way, Jamaica Plain, Massachusetts; Vincent C. Neeson, Labelle and Bellona, Ruxton, Baltimore 4, Maryland; R. L. Huot, 106 Elm Street, Biddeford, Maine; John E. Sutherlin, Sutherlin Sales Company, Industries Building, New Orleans, Louisiana; Thomas Wilkerson, 1600 Washington, Henderson, Kentucky; John C. Junkins, Cherokee, Kansas; Doctor C. W. Hoffman, 1340 Forth-first Street, Des Moines, Iowa; Allen W. Jenkins, 1015 Cherry Street, Evansville, Indiana; Edwin I. Bruder, 6837 Clyde Avenue, Chicago, Illinois; Harry P. Orcutt, Fort Benning, Georgia; Arthur Di Vincent, post-office box 4579, Miami

28, Florida; Maurice B. Marholin, 176 McClintock Road, New Britain, Connecticut; Harry Steinbery, First National Bank Building, El Dorado, Arkansas; Jess Curtiss, 807 North Third Street, Phoenix, Arizona; Edward S. Coston, 69 Ninth Street North, Birmingham, Alabama; Anthony O. Jones, 315 Security Building, Phoenix, Arizona; Frank Dee Scriven, 8474 West Third Street, Los Angeles 36, California; Allen C. Hessier, 1275 Clarkson Street, Number 4, Denver 3, Colorado; Michael Dzamki, 3912 First Street, East Chicago, Indiana; S. Howard Rudolph, Junior, Atlantic, Iowa; Fred K. Greer, 427 East Market Street, Princeton, Kentucky; Roy Morgan, Winnfield, Louisiana; James C. Wilt, 842 Columbia Avenue, Cumberland, Maryland; Chester Modzelewski, 67 Davenport Street, Chicopee, Massachusetts; Arthur Madar, 9166 Yorkshire, Detroit, Michigan; John J. Clark, 257 Harrison Street, Biloxi, Mississippi; William E. Blake, 73 Grey, Buffalo 12, New York; Albert Geremia, room 303, 17 Exchange Street, Providence, Rhode Island; Frank E. Richter, 3, 12-14 West Sixth Street, Evansville, Indiana; Frank J. Ross, 1020 East Pleasant, Milwaukee, Wisconsin; Conrad K. Strauss, 160 Holland Avenue, Cowesett, Rhode Island; Paul S. Limerick, 456 Catalina, Webster Groves, Missouri; Raymond O'Brien, 22 North Ryan Street, Buffalo, New York; Dallas P. Richeson, post-office box 2226, Phoenix, Arizona; Fred Nimz, route 6, box 815A, Phoenix, Arizona; Tom Bulman, 243 East Fifteenth Street, Tucson, Arizona; Charles E. Brode, 15 North Lee Street, Cumberland, Maryland; Clyde B. Blanton, 2095 Seventh Avenue, North, Saint Petersburgh, Florida; Floyd Cooper, 912 Polk Street, Amarillo, Texas; Paul Moody, 548 South Spring Street, Los Angeles, California; Oliver A. Farabee, Lexington, North Carolina; Thad Males, 329 West Valerio Street, Santa Barbara, California; and such persons who are members of the AMVETS (American Veterans of World War II, Korea, and Vietnam) and their successors, are created and declared to be a body corporate by the name AMVETS (American Veterans of World War II, Korea, and Vietnam) and by such name shall be known and have perpetual succession of the powers, limitations, and restrictions herein contained.

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(a), 91 Stat. 830.)

AMENDMENTS

1977—Pub. L. 95-98 substituted "World War II, Korea, and Vietnam)" for "World War II)".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2 of Pub. L. 95-98 provided that: "The amendments made by the first section of this Act [amending sections 67 to 67b, 67e, 67g, 67h, and 67p to 67r of this title] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Aug. 15, 1977]."

§ 67a. Adoption of constitution, bylaws, and declaration of principles; election of officers

CODIFICATION

Amendment of this section by Pub. L. 95-98, § 1(a), Aug. 15, 1977, 91 Stat. 830, which directed that "AMVETS (American Veterans of World War II, Korea, and Vietnam)" be substituted for "AMVETS (American Veterans of World War II)" has not been executed to text since the organization name is used in this section in the context of a historical reference to the name of the predecessor unincorporated association as that association existed at the time of the 1945 convention, at which time the association was named "AMVETS (American Veterans of World War II)".

§ 67b. Purposes of corporation

The purposes of this corporation shall be as follows:

(1) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this Nation was founded.

(2) To maintain a continuing interest in the welfare and rehabilitation of the disabled veterans of World War II, the Korean conflict, and the Vietnam era and to establish facilities for the assistance of all veterans and to represent them in their claims before the Veterans' Administration and other organizations without charge.

[*See main edition for text of (3) to (11)*]

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(b)(1), 91 Stat. 830.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-98 inserted ", the Korean conflict, and the Vietnam era" following "World War II".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-98 effective Oct. 1, 1977, see section 2 of Pub. L. 95-98, set out as an Effective Date of 1977 Amendment note under section 67 of this title.

§ 67e. Membership

Any person who served in the Armed Forces of the United States of America or any American citizen who served in the armed forces of an allied nation of the United States at any time after September 15, 1940, and before May 8, 1975, is eligible for regular membership in AMVETS, provided such service when terminated by discharge or release from active duty be by honorable discharge or separation. No person who is a member of, or who advocates the principles of, any organization believing in, or working for, the overthrow of the United States Government by force, and no person who refuses to uphold and defend the Constitution of the United States, shall be privileged to become, or continue to be, a member of this organization.

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(b)(2), 91 Stat. 830.)

AMENDMENTS

1977—Pub. L. 95-98 substituted "at any time after September 15, 1940, and before May 8, 1975," for "on or after September 16, 1940, and on or before the date of cessation of hostilities as determined by the Government of the United States,".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-98 effective Oct. 1, 1977, see section 2 of Pub. L. 95-98, set out as an Effective Date of 1977 Amendment note under section 67 of this title.

§ 67g. Omitted

CODIFICATION

Pub. L. 95-98, § 1(a), Aug. 15, 1977, 91 Stat. 830, directed that "AMVETS (American Veterans of World War II, Korea, and Vietnam)" be substituted for "AMVETS (American Veterans of World War II)" in the text of section 8 of act July 23, 1947, ch. 298, 61 Stat. 407, which was formerly classified to this section. Execution of such amendment to that text would have been inappropriate since the organization name was used in the text of the section in the context of a historical reference to the name of the predecessor unincorporated association as that association existed at the time of the enactment of act July 23, 1947, at which time the association was named "AMVETS (American Veterans of World War II)". In any case any purported amendment of section 8 of act July 23, 1947, has been rendered academic in view of the omission from the Code of this section as executed.

§ 67h. Use of assets on dissolution or liquidation

In the event of a final dissolution or liquidation of such corporation, and after the discharge or satisfactory provisions for the discharge of all its liabilities, the remaining assets of the said corporation shall be transferred to the Veterans' Administration to be applied to the care and comfort of disabled veterans of World War II, the Korean conflict and the Vietnam era.

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(b)(3), 91 Stat. 830.)

AMENDMENTS

1977—Pub. L. 95-98 inserted ", the Korean conflict and the Vietnam era" following "World War II".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-98 effective Oct. 1, 1977, see section 2 of Pub. L. 95-98, set out as an Effective Date of 1977 Amendment note under section 67 of this title.

§ 67p. Exclusive right to name, seals, emblems, and badges

The corporation and its State, regional, and local subdivisions shall have the sole and exclusive right to have and use in carrying out its purposes the name AMVETS (American Veterans of World War II, Korea, and Vietnam), and such seals, emblems, and badges as the corporation may lawfully adopt.

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(a), 91 Stat. 830.)

AMENDMENTS

1977—Pub. L. 95-98 substituted "World War II, Korea, and Vietnam)" for "World War II)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-98 effective Oct. 1, 1977, see section 2 of Pub. L. 95-98, set out as an Effective Date of 1977 Amendment note under section 67 of this title.

§ 67q. Agents for service of process

As a condition precedent to the exercise of any power or privilege herein granted or conferred AMVETS (American Veterans of World War II, Korea, and Vietnam) shall serve notice on the secretary of state, in each State, of the name and address of an authorized agent in such State upon whom legal process or demands against this corporation may be served.

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(a), 91 Stat. 830.)

AMENDMENTS

1977—Pub. L. 95-98 substituted "World War II, Korea, and Vietnam)" for "World War II)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-98 effective Oct. 1, 1977, see section 2 of Pub. L. 95-98, set out as an Effective Date of 1977 Amendment note under section 67 of this title.

§ 67r. Grant and accrual of rights of other national veterans' organizations

Such provisions, privileges, and prerogatives as have been granted heretofore to other national veterans' organizations by virtue of their being incorporated by Congress are granted and accrue to AMVETS (American Veterans of World War II, Korea, and Vietnam).

(As amended Aug. 15, 1977, Pub. L. 95-98, § 1(a), 91 Stat. 830.)

AMENDMENTS

1977—Pub. L. 95-98 substituted "World War II, Korea, and Vietnam)" for "World War II)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-98 effective Oct. 1, 1977, see section 2 of Pub. L. 95-98, set out as an Effective Date of 1977 Amendment note under section 67 of this title.

CHAPTER 8—AMERICAN BATTLE MONUMENTS COMMISSION

§§ 121b to 122a

REPEATED

Pub. L. 95-119, title II, § 201, Oct. 4, 1977, 91 Stat. 1077.

CHAPTER 36—BIG BROTHERS—BIG SISTERS OF AMERICA

§ 881. Corporation created; short title

(a) The following persons: Charles G. Berwind, Philadelphia, Pennsylvania; Mark Willcox, Junior, Philadelphia, Pennsylvania; Earle S. Thompson, New York, New York; Archie O. Dawson, New York, New York; Isadore A. Wyner, New York, New York; and their successors, are hereby created and declared to be a body corporate of the District of Columbia, where its legal domicile shall be, by the name of the Big Brothers—Big Sisters of America (hereinafter referred to as the corporation) and by such name shall be known and have perpetual succession and the powers, limitations, and restrictions herein contained.

(b) This chapter may be cited as the "Big Brothers—Big Sisters of America".

(As amended Pub. L. 95-167, § 1(a), Nov. 11, 1977, 91 Stat. 1347.)

AMENDMENTS

1977—Pub. L. 95-167 designated existing provisions as subsec. (a) and, as so designated, substituted "Big Brothers—Big Sisters of America" for "Big Brothers of America" and added subsec. (b).

§ 883. Purposes of corporation

The purposes of the corporation shall be to aid and assist individuals throughout the United States of America in the solution of their social and economic problems, and assist in their health, educational and character development; to promote the use of the techniques of such assistance developed by the corporation, by other lay and professional agencies and workers, to receive, invest, and disburse funds and to hold property for the purposes of the corporation.

(As amended Pub. L. 95-167, § 1(b), Nov. 11, 1977, 91 Stat. 1347.)

AMENDMENTS

1977—Pub. L. 95-167 substituted "individuals" for "boys" and struck out "and Canada" following "United States of America".

§ 885. Principal office; scope of activities; resident agent

(a) The principal office of the corporation shall be located in Philadelphia, Pennsylvania, or in such other place as may be later determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the various States, Territories, and possessions of the United States.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-167, § 1(c), Nov. 11, 1977, 91 Stat. 1347.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-167 struck out "and in Canada to the extent permitted by Canadian laws" following "possessions of the United States".

§ 887. Governing body

(a) Composition

Upon the enactment of this chapter the membership of the initial board of directors of the corporation shall consist of the present members of the board of directors of the Big Brothers of America, Incorporated, the corporation described in section 896(a) of this title, or such of them as may then be living and are qualified members of said board of directors, to wit:

[*See main edition for text of remaining pars. of* (a); (b) *and* (c)]

(As amended Pub. L. 95-167, § 1(d), Nov. 11, 1977, 91 Stat. 1347.)

REFERENCES IN TEXT

Section 896(a) of this title, referred to in subsec. (a), was omitted from the Code.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-167 substituted "section 896(a) of this title" for "section 896 of this title".

§ 895. Exclusive right to name, emblems, seals, and badges

The corporation and its subordinate divisions shall have the sole and exclusive right to use any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers. The corporation shall have the exclusive and sole right to use or to allow or refuse the use of such emblems, seals, and badges as have heretofore been used by the predecessor New York corporation, Big Brothers of America, Incorporated, described in section 896(a) of this title, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 896(b) of this title, and the right to which may be transferred to the corporation.

(As amended Pub. L. 95-167, § 1(e), Nov. 11, 1977, 91 Stat. 1347.)

REFERENCES IN TEXT

Section 896(a) of this title, referred to in text, was omitted from the Code.

AMENDMENTS

1977—Pub. L. 95-167 substituted "any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers" for "the name, The Big Brothers of America" and "section 896(a) of this title, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 896(b) of this title," for "section 896 of this title".

§ 896. Acquisition of assets and liabilities of existing corporations

(a) Omitted

(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.

(Pub. L. 85-870, § 16, Sept. 2, 1958, 72 Stat. 1695, amend Pub. L. 95-167, § 1(f), Nov. 11, 1977, 91 Stat. 1347.)

CODIFICATION

Provisions of subsec. (a) of this section, which authorized the corporation to acquire the assets and liabilities of the corporation organized under the laws of the State of New York and known as the Big Brothers of America, Inc., was omitted from the Code as executed.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-167 added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 895 of this title.

CHAPTER 42—AUDITS OF FEDERALLY CHARTERED CORPORATIONS

§ 1101. Definition of private corporations established under Federal law

The term "private corporations established under Federal law" as used in this chapter means the following organizations:

[*See main edition for text of (1) to (10)*]

(11) Big Brothers—Big Sisters of America.

[*See main edition for text of (12) to (49)*]

(As amended Pub. L. 95-167, § 2, Nov. 11, 1977, 91 Stat. 1348.)

REFERENCES IN TEXT

AMVETS (American Veterans of World War II), referred to in par. (9), was changed to AMVETS (American Veterans of World War II, Korea, and Vietnam) by Pub. L. 95-98, Aug. 15, 1977, 91 Stat. 830.

AMENDMENTS

1977—Par. (11). Pub. L. 95-167 substituted "Big Brothers—Big Sisters of America" for "Big Brothers of America".

TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

This title was enacted by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451

CHAPTER 3—BASIC PAY

Sec.
209. Members of precommissioning programs.

Amendments

1977—Pub. L. 95-79, title III, § 302(a)(3)(C), July 30, 1977, 91 Stat. 326, substituted "precommissioning programs" for "Senior Reserve Officers' Training Corps" in item 209.

§ 201. Pay grades: assignment to; general rules

[*See main edition for text of* (a) *and* (b)]

(c) For the purpose of computing their basic pay, warrant officers of the armed forces are assigned, by the warrant officer grade in which serving, to the following pay grades:

Pay Grade	*Warrant Officer Grade*
W-4	Chief Warrant Officer, W-4
W-3	Chief Warrant Officer, W-3
W-2	Chief Warrant Officer, W-2
W-1	Warrant Officer, W-1.

(d) An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to monthly basic pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O-1 with two or less years of service computed under section 205 of this title.

(e) Unless he is entitled to the basic pay of a higher pay grade, an aviation pilot of the Naval Reserve, Marine Corps Reserve, or Coast Guard Reserve is entitled to monthly basic pay at the rate prescribed for pay grade E-5.

(f) Except as provided by subsections (e) and (f) of this section, enlisted members of the uniformed services shall, for the purpose of computing their basic pay, be distributed by the Secretary concerned in the various enlisted pay grades set forth in section 203 of this title. However, except as provided by section 307 of this title, an enlisted member may not be placed in pay grade E-8 or E-9 until he has completed at least 8 years or 10 years, respectively, of enlisted service computed under section 205 of this title.

(As amended Pub. L. 95-79, title III, § 302(a)(1), July 30, 1977, 91 Stat. 326.)

Amendments

1977—Subsec. (c). Pub. L. 95-79, § 302(a)(1), redesignated former subsec. (d) as (c). Former subsec. (c), which related to the monthly rate of pay of cadets or midshipmen at the service academies of the United States, was struck out.

Subsecs. (d) to (f). Pub. L. 95-79, § 302(a)(1)(B), redesignated former subsecs. (e) to (g) as (d) to (f). Former subsec. (d) redesignated (c).

Subsec. (g). Pub. L. 95-79, § 302(a)(1)(B), redesignated subsec. (g) as (f).

Section Referred to in Other Sections

This section is referred to in title 10 section 555.

§ 203. Rates

[*See main edition for text of* (a) *and* (b)]

(c)(1) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly cadet pay, or midshipman pay, at the rate of $313.20.

(2) The rate of monthly cadet pay, or midshipman pay, under this subsection shall be adjusted in the manner and at the time the monthly basic pay of members of the uniformed services is adjusted under section 1009 of this title.

(As amended Pub. L. 95-79, title III, § 302(a)(2), July 30, 1977, 91 Stat. 326.)

Amendments

1977—Subsec. (c). Pub. L. 95-79 added subsec. (c).

Adjustment of Pay Rates

For adjustment of pay rates effective Oct. 1, 1977, see Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 1009 of this title.

Rate of Pay Increases for Cadets, Midshipman, and Applicants for Membership in Senior Reserve Officers' Training Corps

Section 302(b) and (c) of Pub. L. 95-79 provided that:

"(b) Any cadet or midshipman who, on the date of enactment of this Act [July 30, 1977], or on any date thereafter, is—

"(1) admitted to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy, as the case may be, or

"(2) enrolled in the Senior Reserve Officers' Training Corps program and attending a field training encampment or practice cruise for which he is entitled to pay under section 209(c) of title 37, United States Code,

shall, if otherwise entitled, receive the rate of pay prescribed by section 201(c) of title 37, United States Code, as in effect on the day before the date of enactment of this Act, [July 30, 1977], until the rate of pay authorized by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, is equal to or greater than the rate prescribed by section 201(c) of such title, as in effect on the day before the date of enactment of this Act. Thereafter, the rate of pay of such person shall be as prescribed by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, or section 209(c) of such title, as amended by subsection (a) of this section, as appropriate.

"(c) A person who, on the date of enactment of this Act [July 30, 1977], is an applicant for membership in the Senior Reserve Officers' Training Corps and who, in order to satisfy the requirement of section 2104(b)(6)(B) of title 10, United States Code, is attending or will attend one of the field training encampments or practice cruises in a field training or practice cruise period which is in progress on the date of enactment of this Act, is entitled to continue to receive pay at the rate prescribed by such section as in effect on the day before the date of enactment of this Act while such person is attending such field training or practice cruise period in progress on the date of enactment of this Act. Thereafter, the entitlement of such person shall be as prescribed in subsection (b) of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 209, 1009 of this title; title 10 section 1401a.

§ 209. Members of precommissioning programs

[See main edition for text of (a) and (b)]

(c) Each cadet or midshipman in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises under section 2109 of title 10, and each applicant for membership in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises to satisfy the requirements of section 2104(b)(6)(B) of title 10 for admission to advanced training, is entitled, while so attending, to pay at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies under section 203(c) of this title.

(As amended Pub. L. 95-79, title III, § 302(a)(3), July 30, 1977, 91 Stat. 326.)

AMENDMENTS

1977—Pub. L. 95-79, § 302(a)(3)(B), in catchline substituted "Members of precommissioning programs" for "Members of Senior Reserve Officers' Training Corps".

Subsec. (c). Pub. L. 95-79, § 302(a)(3)(A), substituted provisions authorizing rates of pay for cadets and midshipmen in the Senior Reserve Officers' Training Corps and applicants for membership in the Corps to be computed under section 203(c) of this title, for provisions authorizing rates of pay for members of the Senior Reserve Officers' Training Corps to be computed under section 201(c) of this title and for applicants for membership in the Corps to be computed under section 203 of this title for enlisted members in pay grade E-1.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF THE MARINE CORPS OFFICER CANDIDATE PROGRAMS

Pub. L. 92-172, Nov. 24, 1971, 85 Stat. 491, as amended by Pub. L. 94-361, title VI, § 604, July 14, 1976, 90 Stat. 929; Pub. L. 95-79, title VIII, § 806, July 30, 1977, 91 Stat. 334, provided: "That until September 30, 1978, except when on active duty, a member enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as a regular or reserve officer, and who is not enrolled in a program or an academy established under chapter 103, 403, 603, or 903 of title 10, United States Code, may be paid a subsistence allowance at the same rate as that prescribed by section 209(a) of title 37, United States Code."

CHAPTER 5—SPECIAL AND INCENTIVE PAYS

Sec.
308b. Special pay: reenlistment bonus for members of the Selected Reserve.

AMENDMENTS

1977—Pub. L. 95-79, title IV, § 403(a)(2), July 30, 1977, 91 Stat. 331, added item 308b.

§ 302. Special pay: physicians

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Section 2 of Pub. L. 93-274, as amended by Pub. L. 94-273, § 2(18), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94-361, title III, § 305, July 14, 1976, 90 Stat. 926; Pub. L. 95-114, § 1, Sept. 30, 1977, 91 Stat. 1046, provided that: "The amendments made by this Act [enacting sections 302b and 313 of this title and amending this section and section 311 of this title] become effective on the first day of the first calendar month following the date of enactment [May 6, 1974]. The authority for the special pay provided by this Act shall, unless otherwise extended by Congress, expire on September 30, 1978."

§ 302a. Special pay: optometrists

(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty beginning on or after October 1, 1977:

(1) a commissioned officer—

(A) of the Regular Army, Regular Navy, or Regular Air Force who is designated as an optometry officer, or

(B) who is an optometry officer of the Regular Corps of the Public Health Service;

(2) a commissioned officer—

(A) of a Reserve component of the Army, Navy, or Air Force who is designated as an optometry officer; or

(B) who is an optometry officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year; and

(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, Air Force, or the National Guard, as the case may be.

(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

(c) No special pay may be paid under this section for any month after September 1978.

(As amended Pub. L. 95-114, § 2, Sept. 30, 1977, 91 Stat. 1046.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-114 amended subsec. (a) to provide for the reinstatement of special pay provisions for optometrists for each month on active duty beginning on or after Oct. 1, 1977.

Subsec. (b). Pub. L. 95-114 reenacted subsec. (b) without change.

Subsec. (c). Pub. L. 95-114 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 4 of Pub. L. 95-114 provided that: "The amendments made by sections 2 and 3 of this Act [amending this section and section 303 of this title] become effective on October 1, 1977."

§ 303. Special pay: veterinarians

(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty beginning on or after October 1, 1977:

(1) a commissioned officer—

(A) of the Regular Army who is in the Veterinary Corps,

(B) of the Regular Air Force who is designated as a veterinary officer, or

(C) who is a veterinary officer of the Regular Corps of the Public Health Service;

(2) a commissioned officer—

(A) of a Reserve component of the Army who is in the Veterinary Corps of the Army,

(B) of a Reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who is designated as a veterinary officer of the Army or the Air Force, as the case may be, or

(C) who is a veterinary officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year; and

(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2) of this subsection, in the Army, the Air Force, or the National Guard, as the case may be.

(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized in any other provision of this title or in computing retired pay or severance pay.

(c) No special pay may be paid under this section for any month after September 1978.

(As amended Pub. L. 95-114, § 3, Sept. 30, 1977, 91 Stat. 1046.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-114 amended subsec. (a) to provide for the reinstatement of special pay provisions for veterinarians for each month on active duty beginning on or after Oct. 1, 1977.

Subsec. (b). Pub. L. 95-114 reenacted subsec. (b) without change.

Subsec. (c). Pub. L. 95-114 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-114 effective Oct. 1, 1977, see section 4 of Pub. L. 95-114, set out as an Effective Date of 1978 Amendment note under section 302a of this title.

§ 308. Special pay: reenlistment bonus

[*See main edition for text of* (a) *to* (c)]

(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a member who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus that the unexpired part of his additional obligated service is of the total reenlistment or extension period for which the bonus was paid.

[*See main edition for text of* (e)]

(f) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty enlistment, in the armed forces entered into after September 30, 1978.

(As amended Pub. L. 95-57, § 1, June 29, 1977, 91 Stat. 253.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-57, § 1(a), substituted "or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a member who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus, that the unexpired part of his additional obligated service is of the total reenlistment or extension period for which the bonus was paid" for "shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid".

Subsec. (f). Pub. L. 95-57, § 1(b), substituted "September 30, 1978" for "June 30, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3 of Pub. L. 95-57 provided that: "The amendments made by this Act [amending this section and section 308a of this title] shall become effective on July 1, 1977."

§ 308a. Special pay: enlistment bonus

[*See main edition for text of* (a)]

(b) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a person who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus that the unexpired part of his

enlistment is of the total enlistment period for which the bonus was paid.

(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after September 30, 1978.

(As amended Pub. L. 95-57, § 2, June 29, 1977, 91 Stat. 253.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-57, § 2(a), substituted "or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a person who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid" for "shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid".

Subsec. (c). Pub. L. 95-57, § 2(b), substituted "September 30, 1978" for "June 30, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-57 effective on July 1, 1977, see section 3 of Pub. L. 95-57, set out as an Effective Date of 1977 Amendment note under section 308 of this title.

§ 308b. Special pay: reenlistment bonus for members of the Selected Reserve

(a) An enlisted member of a reserve component who—

(1) initially enlisted in a reserve component (other than an enlistment in a reserve component under the delayed enlistment program for the active forces);

(2) has completed less than ten years of service as a member of a reserve component; and

(3) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).

(b) The bonus to be paid under subsection (a) shall be—

(1) an initial payment of—

(A) $450, in the case of a member who reenlists or voluntarily extends his enlistment for a period of three years; or

(B) $900, in the case of a member who reenlists or voluntarily extends his enlistment for a period of six years; and

(2) a subsequent payment of $150 upon the completion of each year of the period of such reenlistment or extension of enlistment during which such member has satisfactorily participated in training with his unit.

(c) No member shall be paid more than one bonus under this section.

(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus is being paid to him under this section shall refund an amount equal to the amount by which the amount of such bonus exceeds the product of—

(1) the number of months during that term of enlistment during which such member participated satisfactorily in training with his unit; and

(2) $25.

(e) The Secretary of Defense shall submit a report to the Congress every three months listing the units of the Selected Reserve of the Ready Reserve which have been designated by him for purposes of subsection (a)(3) and stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus is being paid under this section. The first such report shall be submitted not later than December 31, 1977.

(f) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

(g) No bonus may be paid under this section to any enlisted member who, after September 30, 1978, reenlists or voluntarily extends his enlistment in a reserve component.

(Added Pub. L. 95-79, title IV, § 403(a)(1), July 30, 1977, 91 Stat. 330.)

EFFECTIVE DATE

Section 403(b) of Pub. L. 95-79 provided that: "The amendments made by subsection (a) [enacting this section] shall apply with respect to any reenlistment, or voluntary extension of an enlistment, in the Selected Reserve of any reserve component of the Armed Forces after September 30, 1977."

CHAPTER 7—ALLOWANCES

§ 402. Basic allowance for subsistence

ADJUSTMENT OF ALLOWANCES FOR SUBSISTENCE

For adjustment of subsistence allowances effective Oct. 1, 1977, see Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 1009 of this title.

§ 403. Basic allowance for quarters

ADJUSTMENT OF ALLOWANCES FOR QUARTERS

For adjustment of quarters allowances effective Oct. 1, 1977, see Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 1009 of this title.

CHAPTER 15—PROHIBITIONS AND PENALTIES

§ 801. Restriction on payment to certain officers

EMPLOYMENT BY FOREIGN GOVERNMENT

Pub. L. 95-105, title V, § 509(a) to (c), Aug. 17, 1977, 91 Stat. 859, provided that:

"(a) Subject to the condition described in subsection (b), the consent of Congress is granted to—

"(1) any retired member of the uniformed services,

"(2) any member of a Reserve component of the Armed Forces, and

"(3) any member of the commissioned Reserve Corps of the Public Health Service,

to accept any civil employment (and compensation therefor) with respect to which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution of the United States, relating to acceptance of emoluments, offices, or titles from a foreign government.

"(b) No individual described in subsection (a) may accept any employment or compensation described in such subsection unless the Secretary concerned and the Secretary of State approve such employment.

"(c) For purposes of this section, the term—

"(1) 'uniformed services' means the Armed Forces, the commissioned Regular and Reserve Corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration;

"(2) 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard; and

"(3) 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to retired members of the Army and members of the Army Reserve;

"(B) the Secretary of the Navy, with respect to retired members of the Navy and the Marine Corps, members of the Navy and Marine Corps Reserves, and retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is operating as a service in the Navy;

"(C) the Secretary of the Air Force, with respect to retired members of the Air Force and members of the Air Force Reserve;

"(D) the Secretary of Transportation, with respect to retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is not operating as a service in the Navy;

"(E) the Secretary of Commerce, with respect to retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; and

"(F) the Secretary of Health, Education, and Welfare, with respect to retired members of the commissioned Regular Corps of the Public Health Service and members of the commissioned Reserve Corps of the Public Health Service."

CHAPTER 19—ADMINISTRATION

§ 1009. Adjustments of compensation

ADJUSTMENT OF PAY RATES EFFECTIVE OCT. 1, 1977

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 5332 of Title 5, Government Organization and Employees, provided for an adjustment of pay rates under this section effective Oct. 1, 1977. See Schedule set out below:

PART I—MONTHLY BASIC PAY

(Years of service computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0-10[1]	$3126.30	$3236.40	$3236.40	$3236.40	$3236.40
0-9	2770.80	2843.70	2904.00	2904.00	2904.00
0-8	2509.50	2594.80	2646.30	2646.30	2646.30
0-7	2085.30	2227.20	2227.20	2227.20	2326.80
0-6	1545.60	1698.60	1809.00	1809.00	1809.00
0-5	1236.30	1452.00	1551.90	1551.90	1551.90
0-4	1042.20	1268.40	1353.60	1353.60	1378.20
0-3[2]	968.40	1082.70	1157.10	1280.40	1341.60
0-2[2]	844.20	922.20	1107.90	1145.10	1168.80
0-1[2]	732.90	762.90	922.20	922.20	922.20

	Over 8	Over 10	Over 12	Over 14	Over 16
0-10[1]	$3360.30	$3360.30	$3618.00	$3618.00	$3876.60
0-9	2978.10	2978.10	3101.40	3101.40	3360.30
0-8	2843.70	2843.70	2978.10	2978.10	3101.40
0-7	2326.80	2462.10	2462.10	2584.80	2843.70
0-6	1809.00	1809.00	1809.00	1870.50	2166.90
0-5	1551.90	1599.30	1684.80	1797.30	1932.30
0-4	1439.70	1537.50	1624.20	1698.60	1772.40
0-3[2]	1390.20	1464.60	1537.50	1575.30	1575.30
0-2[2]	1168.80	1168.80	1168.80	1168.80	1168.80
0-1[2]	922.20	922.20	922.20	922.20	922.20

	Over 18	Over 20	Over 22	Over 26	Over 30
0-10[1]	$3876.60	$4136.10*	$4136.10*	$4393.80*	$4393.80*
0-9	3360.30	3613.00	3618.00	3876.60	3876.60
0-8	3236.40	3360.30	3495.00	3495.00	3495.00
0-7	3039.00	3039.00	3039.00	3039.00	3039.00
0-6	2277.60	2326.80	2462.10	2670.00	2670.00
0-5	2043.30	2104.80	2178.60	2178.60	2178.60
0-4	1821.90	1821.90	1821.90	1821.90	1821.90
0-3[2]	1575.30	1575.30	1575.30	1575.30	1575.30
0-2[2]	1168.80	1168.80	1168.80	1168.80	1168.80
0-1[2]	922.20	922.20	922.20	922.20	922.20

[1] While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $4848.00* regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

[2] Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

* Basic pay is limited by Section 5308 of Title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $3958.20 per month.

Commissioned officers who have been credited with over 4 years' active service as enlisted members

(Years of service computed under 37 U.S.C. 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10
0-3	$1280.60	$1341.60	$1390.20	$1464.60
0-2	1145.10	1168.80	1206.00	1268.40
0-1	922.20	984.90	1021.50	1058.40

	Over 12	Over 14	Over 16	Over 18
0-3	$1537.50	$1599.30	$1599.30	$1599.30
0-2	1317.30	$353.60	1353.60	1353.60
0-1	1095.30	1145.10	1145.10	1145.10

	Over 20	Over 22	Over 26	Over 30
0-3	$1599.30	$1599.30	$1599.30	$1599.30
0-2	1353.60	1353.60	1353.60	1353.60
0-1	1145.10	1145.10	1145.10	1145.10

Warrant Officers

(Years of service computed under 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-4	$986.40	$1058.40	$1058.40	$1082.70	$1131.90
W-3	897.00	972.90	972.90	984.90	996.60
W-2	785.40	849.30	849.30	874.20	922.20
W-1	654.30	750.30	750.30	812.70	849.30

Warrant Officers—Continued

	Over 8	Over 10	Over 12	Over 14	Over 16
W-4	$1181.70	$1231.20	$1317.30	$1373.20	$1427.10
W-3	1049.50	1131.90	1168.80	1206.00	1242.00
W-2	972.90	1009.50	1046.40	1082.70	1120.50
W-1	836.20	922.20	960.30	996.60	1033.50
	Over 18	**Over 20**	**Over 22**	**Over 26**	**Over 30**
W-4	$1464.60	$1512.90	$1563.30	$1684.80	$1684.80
W-3	1280.40	1329.90	1378.20	1427.10	1427.10
W-2	1157.10	1193.70	1242.00	1242.00	1242.00
W-1	1069.50	1107.90	1107.90	1107.90	1107.90

Enlisted Members

(Years of service computed under 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9[1]	$0	$0	$0	$0	$0
E-8	0	0	0	0	0
E-7	656.70	708.60	735.00	760.50	786.90
E-6	567.00	618.30	644.10	671.10	696.00
E-5	498.00	541.80	568.20	592.80	631.50
E-4	478.50	505.20	534.90	576.60	599.40
E-3	460.20	485.40	504.90	525.00	525.00
E-2	443.10	443.10	443.10	443.10	443.10
E-1	397.50	397.50	397.50	397.50	397.50
	Over 8	**Over 10**	**Over 12**	**Over 14**	**Over 16**
E-9[1]	$0	$1120.80	$1346.30	$1172.40	$1190.40
E-8	940.50	966.60	992.40	1018.50	1044.90
E-7	811.50	837.30	863.70	902.70	928.20
E-6	721.80	748.20	786.90	811.50	837.30
E-5	657.30	683.70	708.60	721.80	721.80
E-4	599.40	599.40	599.40	599.40	599.40
E-3	525.00	525.00	525.00	525.00	525.00
E-2	443.10	443.10	443.10	443.10	443.10
E-1	397.50	397.50	397.50	397.50	397.50
	Over 18	**Over 20**	**Over 22**	**Over 26**	**Over 30**
E-9[1]	$1225.80	$1249.80	$1315.80	$1443.30	$1443.30
E-8	1069.20	1095.60	1159.80	1289.40	1289.40
E-7	954.30	966.60	1031.70	1159.80	1159.80
E-6	850.20	850.20	850.20	850.20	850.20
E-5	721.80	721.80	721.80	721.80	721.80
E-4	599.40	599.40	599.40	599.40	599.40
E-3	525.00	525.00	525.00	525.00	525.00
E-2	443.10	443.10	443.10	443.10	443.10
E-1	397.50	397.50	397.50	397.50	397.50

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1754.40 regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

PART II—BASIC ALLOWANCE FOR SUBSISTENCE RATES

Officers:	$59.53 per month
Enlisted Members:	
When on leave or authorized to mess separately.	$ 2.84 per day
When rations in-kind are not available.	$ 3.20 per day
When assigned to duty under emergency conditions where no messing facilities of the United States are available.	$ 4.25 per day

PART III—MONTHLY BASIC ALLOWANCE FOR QUARTERS RATES

Pay Grade	Without dependents: Full rate[1]	Without dependents: Partial rate[2]	With dependents
Commissioned Officers			
O-10	$339.30	$50.70	$424.20
O-9	339.30	50.70	424.20
O-8	339.30	50.70	424.20
O-7	339.30	50.70	424.20
O-6	304.50	39.60	371.40
O-5	280.80	33.00	338.10
O-4	249.90	26.70	301.80
O-3	219.90	22.20	271.20
O-2	190.80	17.70	241.50
O-1	148.80	13.20	193.80
Warrant Officers			
W-4	240.90	25.20	290.70
W-3	214.80	20.70	264.60
W-2	186.90	15.90	237.30
W-1	168.60	13.80	218.40
Enlisted Members			
E-9	181.80	18.60	255.60
E-8	167.40	15.30	236.40
E-7	142.50	12.00	219.90
E-6	129.30	9.90	202.20
E-5	124.20	8.70	185.70
E-4	109.80	8.10	163.50
E-3	98.10	7.80	142.50
E-2	86.70	7.20	142.50
E-1	81.90	6.90	142.50

[1] Payment of the full rate of basic allowance for quarters at these rates for members of the uniformed services to personnel without dependents is authorized by 37 U.S.C. 403 and Part IV of Executive Order No. 11157, as amended.

[2] Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and Part IV of Executive Order No. 11157, as amended.

PART IV—MONTHLY RATE OF CADET OR MIDSHIPMAN PAY

The rate of monthly cadet pay or midshipman pay authorized by Section 203(c) of Title 37 of the United States Code is adjusted from $313.20 to $332.70.[1]

[1] Notwithstanding this adjustment under 37 U.S.C. 203(c), pursuant to Section 302(b) of Public Law 95-79 (91 Stat. 326, 37 U.S.C. 203 note) the minimum rate of monthly cadet pay or midshipman pay is $345.00.

EXECUTIVE ORDER No. 11941

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, set out as a note under section 5332 of Title 5, Government Organization and Employees, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 5332 of Title 5.

EX. ORD. No. 11998. PRESIDENT'S COMMISSION ON MILITARY COMPENSATION

Ex. Ord. No. 11998, June 27, 1977, 42 F.R. 33021, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in

accordance with the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. (a) There is established the President's Commission on Military Compensation, hereinafter referred to as the Commission, which shall be composed of not more than nine members who shall be appointed by the President.

(b) The President shall designate a Chairman from among the members.

SEC. 2. (a) The Commission shall review at least the analyses, findings, and recommendations related to military compensation which have been completed by the Quadrennial Reviews of Military Compensation, the Comptroller General, the Interagency Committee Study of Uniformed Services Retirement and Survivor Benefits, the Department of Defense Retirement Study Group, and the Defense Manpower Commission.

(b) The Commission shall identify, study, and make recommendations on critical military compensation issues, specifically addressing the following issues:

(1) What form of military compensation is the most effective for meeting the needs of the Nation in peace and war? Is the present pay and allowances system appropriate? If not, what changes (such as some form of military salary) offer greater potential to serve the national purpose?

(2) Are specific standards appropriate and necessary for setting and adjusting military compensation? If so, what should the standards be? What elements of compensation should be based on such standards?

(3) What provisions are appropriate for differential compensation (such as special and incentive pays) and what are the appropriate criteria for using them?

(4) What are the purposes of the military retirement system? Is the present system effective in achieving these purposes? What changes are appropriate?

(5) Should the unique characteristics of military service be reflected in the compensation system, and, if so, how?

(c) The Commission shall submit a report to the President through the Secretary of Defense by March 15, 1978. The report shall recommend how the military compensation system can best be structured to serve the national interest. If changes are recommended, the Commission should estimate their cost and propose an implementation plan and timetable.

SEC. 3. In performing its functions the Commission shall conduct such studies, reviews, and inquiries as may be necessary. In addition to conducting open meetings in accordance with the Federal Advisory Committee Act [Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770 set out in the Appendix to Title 5, Government Organization and Employees], the Commission shall conduct public hearings to identify critical issues and possible solutions related to the structure of military compensation.

SEC. 4. The Commission is authorized to request from any Executive agency such information that may be deemed necessary to carry out its functions under this Order. Each Executive agency shall, to the extent permitted by law, furnish such information to the Commission in the performance of its functions under this Order.

SEC. 5. Each member of the Commission who is not otherwise employed in the Federal Government may receive, to the extent permitted by law, compensation for each day he or she is engaged in the work of the Commission at a rate not to exceed the maximum daily rate now or hereafter prescribed by law for GS-18 of the General Schedule [set out under section 5332 of Title 5, Government Organization and Employees], and may also receive transportation and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

SEC. 6. The Chairman of the Commission is authorized to establish such additional advisory committees as may be deemed appropriate to carry out the purposes of this Order.

SEC. 7. All necessary administrative staff services, support, facilities, and expenses of the Commission shall, to the extent permitted by law, be furnished by the Department of Defense.

SEC. 8. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Secretary of Defense in accordance with guidelines and procedures established by the Office of Management and Budget.

SEC. 9. The Commission shall terminate thirty days after submitting its report.

JIMMY CARTER.

TITLE 38—VETERANS' BENEFITS

This title was enacted by Pub. L. 85-857, § 1, Sept. 2, 1958, 72 Stat. 1105

PART I—GENERAL PROVISIONS

CHAPTER 1—GENERAL

§ 101. Definitions

For the purposes of this title—

[*See main edition for text of (1) to (17)*]

(18) The term "discharge or release" includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.

[*See main edition for text of (19) to (28)*]

(29) The term "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975.

[*See main edition for text of (30) and (31)*]

(As amended Pub. L. 95-126, § 3, Oct. 8, 1977, 91 Stat. 1108; Pub. L. 95-202, title III, § 309(a), Nov. 23, 1977, 91 Stat. 1446.)

AMENDMENTS

1977—Par. (18). Pub. L. 95-126 designated existing provisions as cl. (A) and added cl. (B).

Par. (29). Pub. L. 95-202 substituted "May 7, 1975" for "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress".

EFFECTIVE DATE OF 1977 AMENDMENTS

Section 501 of Pub. L. 95-202 provided that: "The provisions of this Act [see Short Title of 1977 Amendment note below] shall become effective on the first day of the first month beginning 60 days after the date of enactment of this Act [Nov. 23, 1977], except that the provisions of title I [amending sections 1504, 1677, 1682, 1685, 1692, 1696, 1732, 1742, 1786, 1787, and 1798 of this title] and section 304(a)(1)(A) [amending section 1784(b) of this title] shall be effective retroactively to October 1, 1977, the provisions of sections 201 and 202 [enacting sections 1682A, 1738, and provisions set out as notes under section 1682A and amending section 1798 of this title] shall become effective on January 1, 1978, the provisions of section 203 [amending sections 1662 and 1712 of this title] shall be effective retroactively to May 31, 1976, and the provisions of sections 301, 302(2), 304(a)(1)(B), 304(a)(2), 305(a)(3), 305(b)(2), 305(b)(3), 305(b)(4), 305(c), 306, 307, 308, 309, and 310 and of title IV [enacting section 246, amending sections 101, 210, 1698, 1784, 1785, 1790, 2007, and 2014, and enacting provisions set out as notes under sections 106, 246, 1501, 1673, 1674, and 3101 of this title] shall be effective upon enactment [Nov. 23, 1977]."

Amendment by Pub. L. 95-126 effective Oct. 8, 1977, see section 5 of Pub. L. 95-126, set out as an Effective Date of 1977 Amendment note under section 3103 of this title.

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95-204, § 1, Dec. 2, 1977, 91 Stat. 1455, provided: "That this Act [amending sections 322, 415, 521, 541, 542, and 544 of this title, enacting provision set out as a note under section 322 of this title, and amending provision set out as a note under section 521 of this title] be cited as the 'Veterans and Survivors Pension Adjustment Act of 1977'."

Section 1 of Pub. L. 95-202 provided: "That this Act [enacting sections 246, 1682A, and 1738 of this title, amending sections 101, 210, 1504, 1662, 1663, 1673, 1674, 1677, 1682, 1685, 1692, 1696, 1698, 1712, 1724, 1732, 1742, 1774, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1798, 2007, and 2014 of this title, and enacting provisions set out as notes under sections 101, 106, 246, 1501, 1673, 1674, 1682A, 1792, 1820, and 3101 of this title] may be cited as the 'GI Bill Improvement Act of 1977'."

Pub. L. 95-201, § 1, Nov. 23, 1977, 91 Stat. 1429, provided: "That this Act [which amended sections 4105, 4107, 4114, 4118, and 5001 of this title, enacted provisions set out as notes under sections 4105, 4107, and 4118 of this title, and amended provision set out as a note under section 4118 of this title] may be cited as the 'Veterans' Administration Physician and Dentist Pay Comparability Amendments of 1977'."

Section 1 of Pub. L. 95-117, Oct. 3, 1977, 91 Stat. 1063, provided: "That this Act [which amended sections 314, 315, 362, 411, 413, 414, 801, 1820, and 3020 of this title, and enacted provisions set out as notes under sections 314, 1820, and 3020 of this title] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1977'."

Section 1 of Pub. L. 95-62, July 5, 1977, 91 Stat. 262, provided: "That this Act [amending sections 5031 to 5036 of this title, repealing section 644 of this title, and enacting provisions set out as a note under section 5031 of this title] may be cited as the 'State Veterans' Home Assistance Improvement Act of 1977'."

§ 106. Certain service deemed to be active service

WOMEN'S AIR FORCES SERVICE PILOTS

Pub. L. 95-202, title IV, § 401, Nov. 23, 1977, 91 Stat. 1449, provided that:

"(a)(1) Notwithstanding any other provision of law, the service of any person as a member of the Women's Air Forces Service Pilots (a group of Federal civilian employees attached to the United States Army Air Force during World War II), or the service of any person in any other similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian em-

ployment or contractual service at the time such service was rendered, shall be considered active duty for the purposes of all laws administered by the Veterans' Administration if the Secretary of Defense, pursuant to regulations which the Secretary shall prescribe—

"(A) after a full review of the historical records and all other available evidence pertaining to the service of any such group, determines, on the basis of judicial and other appropriate precedent, that the service of such group constituted active military service, and

"(B) in the case of any such group with respect to which such Secretary has made an affirmative determination that the service of such group constituted active military service, issues to each member of such group a discharge from such service under honor-and [sic, probably should read "honorable"] conditions where the nature and duration of the service of such member so warrants.

Discharges issued pursuant to the provisions of the first sentence of this paragraph shall designate as the date of discharge that date, as determined by the Secretary of Defense, on which such service by the person concerned was terminated.

"(2) In making a determination under clause (A) of paragraph (1) of this subsection with respect to any group described in such paragraph, the Secretary of Defense may take into consideration the extent to which—

"(A) such group received military training and acquired a military capability or the service performed by such group was critical to the success of a military mission,

"(B) the members of such group were subject to military justice, discipline, and control,

"(C) the members of such group were permitted to resign,

"(D) the members of such group were susceptible to assignment for duty in a combat zone, and

"(E) the members of such group had reasonable expectations that their service would be considered to be active military service.

"(b)(1) No benefits shall be paid to any person for any period prior to the date of enactment of this title [Nov. 23, 1977] as a result of the enactment of subsection (a) of this section.

"(2) The provisions of section 106(a)(2) of title 38, United States Code, relating to election of benefits, shall be applicable to persons made eligible for benefits, under laws administered by the Veterans' Administration, as a result of implementation of the provisions of subsection (a) of this section."

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

Sec.
246. Veterans cost-of-instruction payments to institutions of higher learning.

AMENDMENTS

1977—Pub. L. 95-202, title III, § 310(b)(2), Nov. 23, 1977, 91 Stat. 1449, added item 246.

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

§ 210. Appointment and general authority of Administrator; Deputy Administrator

[*See main edition for text of* (a) *and* (b)]

(c)(1) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith, including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards. Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.

[*See main edition for text of* (2) *and* (3); (d)]

(As amended Pub. L. 95-202, title III, § 301, Nov. 23, 1977, 91 Stat. 1440.)

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-202 added provision that any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which the rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which the amendment and the rule, regulation, guideline, interpretation or order being amended is based.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

§ 246. Veterans cost-of-instruction payments to institutions of higher learning

(a)(1) During the period beginning on July 1, 1972, and ending on September 30, 1979, each institution of higher learning shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of this title or veterans receiving educational assistance under chapter 34 of this title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

(i) 110 per centum of the number of such recipients who were in attendance at such

institution during the preceding academic year, or

(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

(B) the number of such persons is at least 25.

(2) During the period specified in paragraph (1) of this subsection, each institution which has qualified for a payment under this section for any fiscal year shall be entitled during the succeeding year, notwithstanding such paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under such paragraph (1) during the preceding academic year, whichever is the lesser. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under such paragraph (1) during the preceding fiscal year.

(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

(A) $300 for each veteran receiving vocational rehabilitation under chapter 31 of this title, or educational assistance under chapter 34 of this title, who is in attendance at such institution as an undergraduate student during such year; and

(B) in addition, $150, except in the case of a veteran on behalf of whom the institution has received a payment in excess of $150 under section 419 of the Higher Education Act of 1965 for each veteran who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of this title and who is in attendance at such institution as an undergraduate student during such year.

(2) In any case where a veteran on behalf of whom a payment is made under this section is enrolled in an institution on less than a full-time basis, the amount of the payment on behalf of such veteran shall be reduced in proportion to the degree to which such veteran is not enrolled on a full-time basis.

(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Administrator. An application under this section shall be submitted at such time or times, in such manner, in such form, and containing such information as the Administrator determines necessary to carry out the functions assigned to the Administrator under this section, and shall—

(A) meet the requirements set forth in clauses (A) and (B) of section 419(c)(1) of the Higher Education Act of 1965;

(B) set forth such plans, policies, assurances, and procedures as will ensure that the applicant will make an adequate effort—

(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of this title, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

(iii) to carry out active outreach (with special emphasis on educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally-assisted work-study program (with special emphasis on the veteran-student services program under section 1685 of this title), and

(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of this title.

Notwithstanding clause (B) of the preceding sentence, an institution with less than 2,500 students in attendance which the Administrator determines, in accordance with regulations jointly prescribed by the Administrator and the Commissioner of Education, Department of Health, Education, and Welfare, cannot feasibly itself carry out any or all of the programs set forth in subclauses (i) through (iv) of clause (B) of the preceding sentence, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education, and shall be required to carry out such programs only to the extent that the Administrator determines, in accordance with regulations jointly prescribed by the Administrator and the Commissioner of Education, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of such clause (B) shall be determined by the Administrator, in consultation with the Commissioner of Education, based upon criteria established in regulations jointly prescribed by them.

(2) The Administrator shall not approve an application under this subsection unless the Administrator determines that the applicant will implement the requirements of clause (B) of paragraph (1) of this subsection within the first academic year during which such institution receives a payment under this section.

(d)(1) The Administrator shall pay to each institution of higher learning which has had an application approved under subsection (c) of this section the amount to which it is entitled under this section. Payments under this subsection shall be made in not less than three install-

ments during each academic year and shall be based on the actual number of veterans on behalf of whom such payments are made in attendance at the institution at the time of the payment.

(2) The maximum amount of payments to any institution of higher learning, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Administrator shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

(e) Not less than 75 per centum of the amounts paid to any institution under subsection (d) of this section in any fiscal year shall be used to implement the requirement of clause (B) (i) of paragraph (1) of subsection (c) of this section, and, to the extent that such funds remain after implementing such requirements, funds limited by such 75 per centum requirement shall be used for implementing the requirements of clauses (B) (ii), (iii), and (iv) of such paragraph (1), except that the Administrator may, in accordance with criteria established in regulations jointly prescribed by the Administrator and the Commissioner of Education, waive the requirement of this subsection to the extent that the Administrator finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

(f) The Administrator, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Commissioner of Education pursuant to the Higher Education Act of 1965, and the Commissioner shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Veterans' Administration.

(Added Pub. L. 95-202, title III, § 310(b)(1), Nov. 23, 1977, 91 Stat. 1446.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (f), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. Section 419 of the Higher Education Act of 1965, referred to in subsecs. (b)(1)(B) and (c)(1)(A), is classified to section 1070e of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

EFFECTIVE DATE

Section 310(b) of Pub. L. 95-202 provided in part that this section is effective on the date on which the Commissioner of Education transfers to the Administrator of Veterans' Affairs, under the authority of section 310(a) of Pub. L. 95-202 [set out as a note below], all functions, powers, and duties assigned to the Commissioner under section 420 of the Higher Education Act of 1965 [section 1070e-1 of Title 20, Education] and that such section is superseded as of that date.

TRANSFER OF VETERANS' COST-OF-INSTRUCTION PROGRAM FROM COMMISSIONER OF EDUCATION

Section 310(a) of Pub. L. 95-202 provided that: "Notwithstanding any other provision of law, (1) the Administrator of Veterans' Affairs is authorized to administer, pursuant to an interagency agreement, the programs carried out under the provisions of section 420 of the Higher Education Act of 1965 [section 1701e-1 of Title 20, Education]; (2) the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is authorized to enter into such interagency agreement to transfer to the Administrator the functions, powers, and duties of the Commissioner under such section; and (3) pursuant to any such agreement, funds appropriated to such Department or the Office of Education in such Department for the purpose of carrying out such section shall be transferred from the Department to the Veterans' Administration for use for the purposes for which such funds are authorized and appropriated. Any such agreement shall provide, for such period of time as may be agreed upon by the Commissioner and the Administrator, for such appropriate technical and support assistance by the Commissioner as the Commissioner and the Administrator agree are necessary to facilitate the implementation of this section [enacting this section and notes hereunder]."

PART II—GENERAL BENEFITS

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be $41;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be $75;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be $113;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be $155;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be $216;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be $272;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be $322;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be $373;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be $419;

(j) if and while the disability is rated as total the monthly compensation shall be $754;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $56 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed $937 per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (*l*) through (n) of this section, the rate of compensation shall be increased by $56 per month for each such loss or loss of use, but in no event to exceed $1,312 per month;

(*l*) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $937;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $1,032;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss of two extremities so near the shoulder or hip as to prevent use of a prosthetic appliance or has suffered the anatomical loss of both eyes, the monthly compensation shall be $1,172;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (*l*) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, the monthly compensation shall be $1,312;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of $1,312. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of $1,312;

[(q) Repealed. Pub. L. 90-493, § 4(a), Aug. 19, 1968, 82 Stat. 809]

(r) if any veteran, otherwise entitled to the compensation authorized under subsection (o) of this section, or the maximum rate authorized under subsection (p) of this section, is in need of regular aid and attendance, such veteran shall be paid in addition to such compensation, a monthly aid and attendance allowance at the rate of $563 per month subject to the limitations of section 3203(e) of this title. For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) if the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be $843. For the purpose of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(As amended Pub. L. 95-117, title I, § 101(a), Oct. 3, 1977, 91 Stat. 1063.)

AMENDMENTS

1977—Subsecs. (a) to (p), (r), (s). Pub. L. 95-117 increased the compensation in subsec. (a) from $38 to $41, subsec. (b) from $70 to $75, subsec. (c) from $106 to $113, subsec. (d) from $145 to $155, subsec. (e) from $203 to $216, subsec. (f) from $255 to $272, subsec. (g) from $302 to $322, subsec. (h) from $350 to $373, subsec. (i) from $393 to $419, subsec. (j) from $707 to $754, subsec. (k) from $879 and $1,231 to $937 and $1,312, respectively, subsec. (*l*) from $879 to $937, subsec. (m) from $968 to $1,032, subsec. (n) from $1,099 to $1,172, subsec. (o) from $1,231 to $1,312, subsec. (p) from $1,231 to $1,312, subsec. (r) from $528 to $563, and subsec. (s) from $791 to $843.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 501 of Pub. L. 95-117 provided that: "Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code [amending sections 314, 315, 362, 411, 413, 414 and 801 of this title and enacting provisions set out as notes under sections 101 and 314 of this title], shall become effective on October 1, 1977."

RATE ADJUSTMENTS

Section 101(b) of Pub. L. 95-117 provided that: "The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section [amending subsecs. (a) to (p), (r) and (s) of this section], the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 [set out as a note preceding section 101 of this title] who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code."

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rate provided in section 314 of this title, and whose disability is rated not less than 50 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse and no child living, $46;

(B) has a spouse and one child living, $77;

(C) has a spouse and two children living, $98;

(D) has a spouse and three or more children living, $120 (plus $22 for each living child in excess of three);

(E) has no spouse but one child living, $30;

(F) has no spouse but two children living, $52;

(G) has no spouse but three or more children living, $77 (plus $22 for each living child in excess of three);

(H) has a parent dependent upon such veteran for support, then, in addition to the above amounts, $37 for each parent so dependent;

(I) notwithstanding the other provisions of this subsection, the monthly payable amount on account of a spouse who is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be $83 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection; and

(J) notwithstanding the other provisions of this subsection, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be $70 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection.

[*See main edition for text of (2)*]

(As amended Pub. L. 95-117, title I, § 102, Oct. 3, 1977, 91 Stat. 1064.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-117 substituted $46 for $43 in subpar. (A), $77 for $72 in subpar. (B), $98 for $92 in subpar. (C), $120 and $22 for $113 and $21, respectively, in subpar. (D), $30 for $28 in subpar. (E), $52 for $49 in subpar. (F), $77 and $22 for $72 and $21, respectively, in subpar. (G), $37 for $35 in subpar. (H), $83 for $78 in subpar. (I), and $70 for $66 in subpar. (J).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective on Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as an Effective Date of 1977 Amendment note under section 314 of this title.

§ 322. Rates of wartime death compensation

[*See main edition for text of (a)*]

(b) The monthly rate of death compensation payable to a surviving spouse or dependent parent under subsection (a) of this section shall be increased by $79 if the payee is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(As amended Pub. L. 95-204, title III, § 301, Dec. 2, 1977, 91 Stat. 1459.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-204 substituted "$79" for "$74".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 302 of Pub. L. 95-204 provided that: "The provisions of this Act [amending sections 322, 415, 521, 541, 542, and 544 of this title, enacting provision set out as a note under section 101 of this title, and amending provision set out as a note under section 521 of this title] shall take effect January 1, 1978".

§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of $203 per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

(As amended Pub. L. 95-117, title III, § 301, Oct. 3, 1977, 91 Stat. 1065.)

AMENDMENTS

1977—Pub. L. 95-117 substituted "$203" for "$190".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective on Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as an Effective Date of 1977 Amendment note under section 314 of this title.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	Monthly rate
E-1	$277
E-2	286
E-3	293
E-4	311
E-5	320
E-6	327
E-7	343
E-8	362
E-9	[1]378
W-1	350
W-2	364
W-3	375
W-4	397
O-1	350
O-2	362
O-3	388
O-4	409
O-5	451
O-6	507
O-7	550
O-8	602
O-9	647
O-10	[2]708

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by Sec. 402 of this title, the surviving spouse's rate shall be $407.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air force, or Commandant of the Marine Corps, at the applicable time designated by Sec. 402 of this title, the surviving spouse's rate shall be $759.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $33 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $83 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(As amended Pub. L. 95-117, title II, § 201, Oct. 3, 1977, 91 Stat. 1064.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-117 generally upgraded the monthly rates for all pay grades.

Subsec. (b). Pub. L. 95-117 increased from $31 to $33 the monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 95-117 increased the monthly rate of compensation payable to a surviving spouse from $78 to $83.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective on Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as an Effective Date of 1977 Amendment note under section 314 of this title.

§ 413. Dependency and indemnity compensation to children

Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, $140;

(2) two children, $201;

(3) three children, $259; and

(4) more than three children, $259, plus $52 for each child in excess of three.

(As amended Pub. L. 95-117, title II, § 202, Oct. 3, 1977, 91 Stat. 1065.)

AMENDMENTS

1977—Pub. L. 95-117 substituted "$140", "$201", "$259", "$259", and "$52" for "$131", "$189", "$243", "$243", and "$49", in pars. (1), (2), (3), and (4), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective on Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as an Effective Date of 1977 Amendment note under section 314 of this title.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by $83.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of $140.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $71.

(As amended Pub. L. 95-117, title II, § 203, Oct. 3, 1977, 91 Stat. 1065.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-117, § 203(1), substituted "$83" for "$78".

Subsec. (b). Pub. L. 95-117, § 203(2) substituted "$140" for "$131".

Subsec. (c). Pub. L. 95-117, § 203(3), substituted "$71" for "$67".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective on Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as an

Effective Date of 1977 Amendment note under section 314 of this title.

§ 415. Dependency and indemnity compensation to parents

[*See main edition for text of (a)*]

(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

The monthly rate of dependency and indemnity compensation shall be $152 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.05	1,000	1,200
.06	1,200	1,500
.08	1,500	3,770

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,770.

[*See main edition for text of (4)*]

(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each parent according to the following formula:

The monthly rate of dependency and indemnity compensation shall be $107 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.05	1,100	2,000
.06	2,000	3,770

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,770.

(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

The monthly rate of dependency and indemnity compensation shall be $102 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,000
.03	2,000	2,900
.04	2,900	3,600
.05	3,600	5,070

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $5,070.

[*See main edition for text of (e) to (g)*]

(h) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $79 if such parent is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(As amended Pub. L. 95-204, title II, § 201, Dec. 2, 1977, 91 Stat. 1457, 1458.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-204, § 201(1), increased the monthly rate of compensation from $142 to $152, substituted ".05" for ".04", ".06" for ".05", ".08" for ".06", "1,500" for "1,400" in two places, and "3,770" for "1,600", and struck out provision reducing compensation by .08 for income more than 1,600 but not more than 3,540.

Subsec. (b)(3). Pub. L. 95-204, § 201(2), substituted "$3,770" for "$3,540".

Subsec. (c)(1). Pub. L. 95-204, § 201(3), increased the monthly rate of compensation from $100 to $107, substituted ".05" for ".04", ".06" for ".05", "2,000" for "1,300" in two places, and "3,770" for "2,300", and struck out provision reducing compensation by .06 for income more than 2,300 but not more than 3,540.

Subsec. (c)(3). Pub. L. 95-204, § 201(4), substituted "$3,770" for "$3,540".

Subsec. (d)(1). Pub. L. 95-204, § 201(5), increased the monthly rate of compensation from $96 to $102, and substituted "2,000" for "2,100" in two places, "2,900" for "3,100" in two places, "3,600" for "3,800" in two places, and "5,070" for "4,760".

Subsec. (d)(3). Pub. L. 95-204, § 201(6), substituted "$5,070" for "$4,760".

Subsec. (h). Pub. L. 95-204, § 201(7), substituted "$79" for "$74".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-204 to take effect Jan. 1, 1978, see section 302 of Pub. L. 95-204, set out as an Effective Date of 1977 Amendment note under section 322 of this title.

CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

SUBCHAPTER II—VETERANS' PENSIONS

§ 521. Veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era

[See main edition for text of (a)]

(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

The monthly rate of pension shall be $197 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,100
.07	1,100	1,700
.08	1,700	3,770

(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,770.

(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

The monthly rate of pension for a veteran shall be—$212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,000
.04	1,000	2,000
.05	2,000	3,000
.06	3,000	3,200
.07	3,200	3,600
.08	3,6000	5,070

(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $5,070.

(d)(1) If the veteran is in need of regular aid and attendance, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $165.

(2) In any case in which—

(A) any veteran is denied pension under subsection (b) or (c) of this section solely for the reason that his annual income exceeds the maximum income limitation set forth in such subsection, or

(B) payment of pension to any veteran under such subsection (b) or (c) is discontinued for such reason.

and such veteran is in need of aid and attendance, such veteran shall be entitled to a monthly rate of $165 reduced by 16.6 per centum for each $100, or portion thereof, by which the veteran's annual income exceeds the applicable maximum annual income limitation; but no monthly rate shall be payable under this paragraph if the veteran's annual income exceeds such limitation by more than $500.

(e) If the veteran has a disability rated as permanent and total, and (1) has additional liability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of such veteran's disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $61.

[See main edition for text of (f) to (h)]

(As amended Pub. L. 95-204, title I, § 101, Dec. 2, 1977, 91 Stat. 1455.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-204, § 101(1), increased the monthly rate of pension from $185 to $197, and substituted "1,100" for "1,500" in two places, "1,700" for "1,800" in two places, and "3,770" for "3,540".

Subsec. (b)(3). Pub. L. 95-204, § 101(2), substituted "$3,770" for "$3,540".

Subsec. (c)(1). Pub. L. 95-204, § 101(3), increased the monthly rates of pension from $199 to $212, $204 to $217, and $209 to $222, and substituted "1,000" for "1,100" in two places, "2,000" for "2,400" in two places, "3,000" for "3,100" in two places, "3,200" for "3,500" in two places, "3,600" for "3,700" in two places" and "5,070" for "4,760".

Subsec. (c)(3). Pub. L. 95-204, § 101(4), substituted "$5,070" for "$4,760".

Subsec. (d). Pub. L. 95-204, § 101(5), substituted "$165" for "$155" in pars. (1) and (2).

Subsec. (e). Pub. L. 95-204, § 101(6), substituted "$61" for "$57".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-204 to take effect Jan. 1, 1978, see section 302 of Pub. L. 95-204, set out as an Effective Date of 1977 Amendment note under section 322 of this title.

INCOME RESTRICTIONS ON PENSIONS; EFFECTIVE DATES

Section 4 of Pub. L. 90-275, as amended by Pub. L. 91-588, § 5; Pub. L. 92-198, § 4; Pub. L. 93-527, § 6; Pub. L. 94-169, § 107; and Pub. L. 94-432, § 206; Pub. L. 95-204, section 105, provided that: "The income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [set out in a Savings Provisions note above] hereafter shall be $3,300 and $4,760 instead of $3,100 and $4,460, respectively.

Section 4 of Pub. L. 90-275, as originally enacted, was eff. Jan. 1, 1969, pursuant to Pub. L. 90-275, § 6(a). Subsequent amendments to said section 4 by Pub. L. 91-588, Pub. L. 92-198, and Pub. L. 94-169 were effective Jan. 1, 1971, Jan. 1, 1972, and for a period beginning Jan. 1, 1976 and ending Sept. 30, 1976, respectively. Pub. L. 94-432, §§ 101, 405(b) amended said section 4 of Pub. L. 90-275 and section 107 of Pub. L. 94-169 to be effective Jan. 1, 1976 and Jan. 1, 1977, respectively. Pub. L. 95-204, § 302 amended said section 4 of Pub. L. 90-275 to be effective Jan. 1, 1978.

SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN

§ 541. Surviving Spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans

[*See main edition for text of* (a)]

(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

The monthly rate of pension shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	300	900
.04	900	1,100
.05	1,100	1,800
.06	1,800	2,800
.07	2,800	3,770

(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,770.

(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

The monthly rate of pension shall be $159 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,600
.03	1,600	2,400
.04	2,400	2,900
.05	2,900	5,070

(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $5,070.

(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate.

(d) If there is a surviving spouse and more than one child, the monthly rate payable under subsection (c) shall be increased by $26 for each additional child.

[*See main edition for text of* (e) *and* (f)]

(As amended Pub. L. 95-204, title I, § 102, Dec. 2, 1977, 91 Stat. 1456.)

Amendments

1977—Subsec. (b)(1). Pub. L. 95-204, § 102(1), increased the monthly rate of pension from $125 to $133, added authorization for reductions by .07 for amounts more than 2,800 but not more than 3,770, and substituted "1,100" for "1,200" in two places, "1,800" for "2,300" in two places, and "2,800" for "3,540".

Subsec. (b)(3). Pub. L. 95-204, § 102(2), substituted "$3,770" for "$3,540".

Subsec. (c)(1). Pub. L. 95-204, § 102(3), increased the monthly rate of pension from $149 to $159, and substituted "1,600" for "1,700" in two places, "2,400" for "2,500" in two places, "2,900" for "3,300" in two places, and "5,070" for "4,760".

Subsec. (c)(2). Pub. L. 95-204, § 102(4), substituted "$5,070" for "$4,760".

Subsec. (d). Pub. L. 95-204, § 102(5), substituted "$26" for "$24".

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-204 to take effect Jan. 1, 1978, see section 302 of Pub. L. 95-204, set out as an Effective Date of 1977 Amendment note under section 322 of this title.

§ 542. Children of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans

(a) Whenever there is no surviving spouse entitled to pension under section 541 of this title, the Administrator shall pay to the child or children of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the monthly rate of $61 for one child, and $26 for each additional child.

(b) Pension prescribed by this section shall be paid to eligible children in equal shares.

(c) No pension shall be paid under this section to a child whose annual income, excluding earned income, exceeds $3,080.

(As amended Pub. L. 95-204, title I, § 103, Dec. 2, 1977, 91 Stat. 1457.)

Amendments

1977—Subsec. (a). Pub. L. 95-204, § 103(1), substituted "$61" and "$26" for "$57" and "$24", respectively.

Subsec. (c). Pub. L. 95-204, § 103(2), substituted "$3,080" for "$2,890".

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-204 to take effect Jan. 1, 1978, see section 302 of Pub. L. 95-204, set out as an Effective Date of 1977 Amendment note under section 322 of this title.

§ 544. Aid and attendance allowance

If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pen-

sion payable to the surviving spouse shall be increased by $79.

(As amended Pub. L. 95-204, title I, § 104, Dec. 2, 1977, 91 Stat. 1457.)

AMENDMENTS

1977—Pub. L. 95-204 substituted "$79" for "$74".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-204 to take effect Jan. 1, 1978, see section 302 of Pub. L. 95-204, set out as an Effective Date of 1977 Amendment note under section 322 of this title.

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

SUBCHAPTER V—PAYMENTS TO STATE HOMES

Sec.
[644. Repealed.]

AMENDMENTS

1977—Pub. L. 95-62, § 4(b), July 5, 1977, 91 Stat. 263, struck out item 644 "Authorization of appropriations".

SUBCHAPTER V—PAYMENTS TO STATE HOMES

[§ 644. Repealed. Pub. L. 95-62, § 2, July 5, 1977, 91 Stat. 262]

Section, added Pub. L. 91-178, § 2(a), Dec. 30, 1969, 83 Stat. 836, and amended Pub. L. 93-82, title IV, § 403(b), Aug. 2, 1973, 87 Stat. 196, authorized appropriations to be used for making grants to States which had submitted and had approved applications for assistance in remodeling, modification, or alteration of existing hospital or domiciliary facilities in State homes providing care and treatment for veterans. See section 5033 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1977, but with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under this section and with additional provision for the modification of the terms and conditions of both grants made under this section prior to Oct. 1, 1977, and of grants made under subchapter III of chapter 81 [section 5031 et seq.] of this title prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as an Effective Date of 1977 Amendment note under section 5031 of this title.

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

§ 801. Veterans eligible for assistance

The Administrator is authorized, under such regulations as he may prescribe, to assist any veteran, who is entitled to compensation under chapter 11 of this title, based on service after April 20, 1898, for permanent and total service-connected disability—

[*See main edition for text of (1) and (2)*]

(3) due to the loss or loss of use of one lower extremity together with (A) residuals of organic disease or injury, or (B) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,

in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor. The regulations of the Administrator shall include, but not be limited to, provisions requiring findings that (1) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (2) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (3) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

(As amended Pub. L. 95-117, title IV, § 401, Oct. 3, 1977, 91 Stat. 1065.)

AMENDMENTS

1978—Pub. L. 95-117 in cl. (3) added reference to the loss or the loss of use of one upper extremity and reference to braces, crutches, and canes.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective on Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as an Effective Date of 1977 Amendment note under section 314 of this title.

PART III—READJUSTMENT AND RELATED BENEFITS

CHAPTER 31—VOCATIONAL REHABILITATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 106, 109, 243, 246, 351, 601, 618, 628, 1673, 1682A, 1685, 1698, 1779, 1780, 1790, 1792, 1793, 1795, 2013, 3013, 3107 of this title; title 5 section 8525; title 20 section 1070e-1; title 26 section 51; title 29 section 981.

§ 1501. Definitions

VOCATIONAL REHABILITATION STUDY; REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95-202, title III, § 307, Nov. 23, 1977, 91 Stat. 1445, provided that: "The Administrator of Veterans' Affairs, in consultation with the Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, shall conduct a study in regard to the provisions of chapter 31 of title 38, United States Code. The report of such study shall include (1) the Administrator's recommendations for legislative or administrative changes in such chapter, (2) the Administrator's recommendations with regard to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement assistance, and (3) the Administrator's recommendations for utilizing the veterans education programs provided by chapters 32, 34, 35, and 36 of such title to meet the needs of disabled veterans eligible for assistance under such chapter 31 and such other chapters. Such report shall also include a description and analysis of the scope and quality of vocational rehabilitation assistance provided under such chapter 31 in comparison with vocational rehabilitation services provided under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.). The report of such study shall be submitted to the President and the Congress not later than March 1, 1978."

§ 1504. Subsistence allowances

[*See main edition for text of* (a)]

(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter-time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19

[*See main edition for text of* (c) *and* (d)]

(As amended Pub. L. 95-202, title I, § 101, Nov. 23, 1977, 91 Stat. 1433.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 increased the monthly subsistence allowance of a veteran trainee in column II from $226, $170, $113, and $197 to $241, $181, $120, and $210; in column III from $280, $210, $140, and $238 to $298, $224, $149, and $254; in column IV from $329, $247, $165, and $275 to $351, $263, $176, and $293; in column V from $24, $18, $12, and $18 to $26, $19, $13, and $19, respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1673, 1682A, 1774, 1790 of this title.

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

Sec.
1682A. Accelerated payment of educational assistance allowances.

AMENDMENTS

1977—Pub. L. 95-202, title II, § 201(c)(1), Nov. 23, 1977, 91 Stat. 1438, added item 1682A.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 111, 243, 246, 618, 1502, 1685, 1698, 1770, 1771, 1772, 1773, 1774, 1780, 1781, 1782, 1783, 1784, 1785, 1787, 1788, 1789, 1790, 1792, 1793, 1794, 1795, 1796, 2013, 3013, 3107, 4114 of this title; title 20 section 1070e-1; title 29 section 981.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 1661. Eligibility; entitlement; duration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1652, 1662, 1682, 1682A, 1693, 1696, 1798 of this title.

§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.

(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title, after the delimiting date otherwise applicable to such veteran under such paragraph (1), if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such veteran's eligibility.

(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility (i) until such entitlement is exhausted, (ii) until the expiration of two years after the date of enactment of this paragraph or the date of the expiration of the delimiting date otherwise applicable to such veteran under paragraph (1) of this subsection, whichever is later, or (iii) until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1) of this subsection, whichever occurs first.

[*See main edition for text of* (b) *to* (e)]

(As amended Pub. L. 95-202, title II, § 203(a)(1), (b)(1), Nov. 23, 1977, 91 Stat. 1439.)

REFERENCES IN TEXT

Two years after the date of enactment of this paragraph, referred to in subsec. (a)(2)(B), means two years after Nov. 23, 1977, the date of approval of Pub. L. 95-202 which enacted such paragraph.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-202 designated existing provisions as par. (1), added par. (2), and added "except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education" following "active duty after January 31, 1955" in par. (1) as so redesignated.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to May 31, 1976, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1712 of this title; title 20 section 1070e-1.

§ 1663. Educational and vocational counseling

The Administrator shall make available to any eligible veteran, upon such veteran's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Administrator deems necessary to aid such veteran in selecting (1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective, or (2) an employment objective that would be likely to provide such veteran with satisfactory employment opportunities in light of such veteran's personal circumstances. At such intervals as the Administrator deems necessary, the Administrator shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Administrator deems practicable. The Administrator shall take appropriate steps (including individual notification where feasible) to acquaint all eligible veterans with the availability and advantages of such counseling services.

(As amended Pub. L. 95-202, title III, § 302(a), Nov. 23, 1977, 91 Stat. 1440.)

AMENDMENTS

1977—Pub. L. 95-202 substituted "The Administrator shall make available to any eligible veteran, upon such veteran's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Administrator deems necessary to aid such veteran in selecting (1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective, or (2) an employment objective that would be likely to provide such veteran with satisfactory employment opportunities in light of such veteran's personal circumstances" for "The Administrator may arrange for educational and vocational counseling for veterans eligible for educational assistance under this chapter" and added provisions directing the Administrator to acquaint all eligible veterans with the availability and advantages of counseling services.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective on the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SUBCHAPTER III—ENROLLMENT

§ 1673. Disapproval of enrollment in certain courses

[*See main edition for text of* (a) *to* (c)]

(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V, any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans' Administration under this title and/or by grants from any Federal agency. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 per centum or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 per centum of the total student enrollment in such course.

(As amended Pub. L. 95-202, title III, § 305(a)(2), Nov. 23, 1977, 91 Stat. 1443.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-202 added requirement that the determination of the Administrator be made pursuant to regulations prescribed by the Administrator and that the provisions of this subsection not apply to any course offered by an educational institution if the total number of veterans and persons re-

ceiving assistance under this chapter or chapter 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 per centum or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 per centum of the total student enrollment in such course.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective on the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

STUDY OF NEED FOR COMPUTING PERCENTAGE OF STUDENTS ENROLLED IN COURSES AT EDUCATIONAL INSTITUTIONS RECEIVING FEDERAL GRANTS

Section 305(a)(3) of Pub. L. 95-202 provided that: "The Administrator of Veterans' Affairs, in consultation with other appropriate departments and agencies, shall conduct a study to examine the need for computing, under section 1673(d) of title 38, United States Code, the percentage of those students enrolled in courses at educational institutions who are in receipt of grants from any Federal department or agency, and the problems of such institutions in making such latter computations, and shall, not later than September 30, 1978, submit a report to the Congress indicating whether such computations are needed and prescribing in detail an adequate system for making such computations. Until the expiration of six months after the date of submission of such report and until such time as the Administrator shall determine, based on such report, that there is an adequate and feasible system for making such computations and that it is desirable and necessary to make such computations, the Administrator shall not apply the provisions contained in section 1673(d) of title 38, United States Code, requiring educational institutions in determining compliance with such subsection to compute the numbers of students in receipt of Federal grants other than from the Veterans' Administration."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1682A of this title.

§ 1674. Discontinuance for unsatisfactory conduct or progress

The Administrator shall discontinue the educational assistance allowance of an eligible veteran if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution, the veteran's conduct or progress is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit such veteran to graduate within the approved length of the course based on the training time as certified to the Veterans' Administration, or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable in accordance with regulations. The Administrator may renew the payment of the educational assistance allowance only if the Administrator finds that—

[*See main edition for text of (1) and (2)*]

(As amended Pub. L. 95-202, title III, § 305(b)(1), Nov. 23, 1977, 91 Stat. 1443.)

AMENDMENTS

1977—Pub. L. 95-202 added provisions authorizing the Administrator to determine the veteran's progress to be satisfactory even though the veteran will graduate within a length of time exceeding the approved length if the additional length of time is reasonable in accordance with regulations.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective on the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

STUDY OF METHODS TO IMPROVE PROCESS UNDER WHICH POSTSECONDARY EDUCATIONAL INSTITUTIONS AND COURSES ARE APPROVED; REPORT BY SEPTEMBER 30, 1979; SUSPENSION OF IMPLEMENTATION OF 1976 AMENDMENT

Section 305(b)(2) to (4) of Pub. L. 95-202 provided that:

"(2) The Administrator of Veterans' Affairs, in consultation with appropriate bodies, officials, persons, departments, and agencies, shall conduct a study to investigate (A) specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code; and (B) in recognition of the importance of assuring that Federal assistance is made available to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective under such chapters, the need for legislative or administrative action in regard to sections 1674 and 1724 of title 38, United States Code, and the regulations prescribed thereunder. A report of such study, together with such specific recommendations for administrative or legislative action as the Administrator deems appropriate, shall be submitted to the President and the Congress not later than September 30, 1979, except that the portion of the report of such study described in clause (B) of the preceding sentence shall be submitted not later than September 30, 1978.

"(3) For the purpose of carrying out paragraph (1) of this subsection, there are authorized to be appropriated $1,000,000.

"(4)(A) Until such time as the Administrator submits the report required under the second sentence of paragraph (2) of this subsection, the Administrator shall suspend implementation of the amendments to sections 1674 and 1724 of title 38, United States Code, made by sections 206 and 307, respectively, of Public Law 94-502, in the case of any accredited educational institution which submits to the Administrator its course catalog or bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) [of this title] are being enforced by such institution, unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly such policies and regulations.

"(B) The Administrator shall, where appropriate, bring to the attention of the Council on Postsecondary Accreditation and the appropriate accrediting and licensing bodies such catalogs, bulletins, and certifications submitted under subparagraph (A) of this paragraph which the Administrator believes may not be in

compliance with the standards of such accrediting and licensing body."

§ 1677. Flight training

[See main edition for text of (a)]

(b) Each eligible veteran who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of subsection (a) hereof, shall be paid an educational assistance allowance to be computed at the rate of 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay. Such allowance shall be paid monthly upon receipt of a certification as required by section 1681(c) of this title. In each such case the eligible veteran's period of entitlement shall be charged with one month for each $288 which is paid to the veteran as an educational assistance allowance for such course.

(As amended Pub. L. 95-202, title I, § 102(1), Nov. 23, 1977, 91 Stat. 1433.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 substituted "$288" for "$270".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), or (c) of this section, or section 1677 or 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$311	$370	$422	$26
Three-quarter-time	233	277	317	19
Half-time	156	185	211	13
Cooperative	251	294	334	19

[See main edition for text of (2)]

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced non-veterans enrolled in the same program to pay, or (B) $311 per month for a full-time course, whichever is the lesser.

(c)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of 7 clock hours per week), or

(C) a half-time basis (a minimum of 5 clock hours per week)

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the basis shown in column I:

Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$251	$294	$334	$19
Three-quarter-time	188	221	251	15
Half-time	126	147	167	10

[See main edition for text of (d) and (e)]

(As amended Pub. L. 95-202, title I, § 102(2)-(4), Nov. 23, 1977, 91 Stat. 1434.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-202, § 102(2), increased the monthly educational assistance allowance for eligible veterans in column II from $292, $219, $146, and $235 to $311, $233, $156, and $251; in column III from $347, $260, $174, and $276 to $370, $277, $185, and $294; in column IV from $396, $297, $198, and $313 to $422, $317, $211, and $334; in column V from $24, $18, $12, and $18 to $26, $19, $13, and $19, respectively.

Subsec. (b). Pub. L. 95-202, § 102(3), substituted "$311" for "$292".

Subsec. (c)(2). Pub. L. 95-202, § 102(4), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $235, $176, and $118 to $251, $188, and $126; in column III from $276, $207, and $138 to $294, $221, and $147; in column IV from $313, $235, and $157 to $334, $251, and $167; in column V from $18, $14, and $9 to $19, $15, and $10, respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1682A, 1691, 1692, 1732, 1780 of this title.

§ 1682A. Accelerated payment of educational assistance allowances

(a) The Administrator, in accordance with the provisions of this section and section 1798(f) of this title and regulations which the Administrator shall prescribe under such sections, shall accelerate the payment of educational assistance allowances (hereinafter in this section referred to as "accelerated payment") to an eligible veteran who makes application and is eligible therefor and proportionally reduce the educational entitlement of such veteran under section 1661 of this title.

(b) An eligible veteran who makes application for accelerated payment shall be eligible for such payment in connection with each school term for which such veteran applies for such accelerated payment only if—

(1) such veteran was enrolled as a full-time student during such school term;

(2) such veteran was entitled to an educational assistance allowance under section 1661 during such school term;

(3) such veteran has received, after the date of enactment of this section, a loan for such school term pursuant to section 1798 of this title;

(4) the combined amount of tuition and fees of the educational institution in which such veteran was enrolled was in excess of $700 for such school term;

(5) the educational institution in which such veteran was enrolled has certified to the Administrator that such veteran has satisfactorily completed the program of education and attained the predetermined and identified educational, professional, or vocational objective which such veteran has been pursuing and has on such basis been awarded by such institution the appropriate educational degree, diploma, or certificate signifying such completion and attainment;

(6) such application was filed with the Administrator within 180 days after the date (A) on which the degree, diploma, or certificate described in clause (5) of this subsection has been awarded to such veteran, or (B) on which the appropriate State or local governmental unit establishes a program described in clause (8) of this subsection, whichever date is the later;

(7) the educational institution in which such veteran was enrolled has certified for such school term that 35 per centum or less (or such other per centum as the Administrator prescribes pursuant to section 1673(d) of this title) of the total number of students enrolled in such institution (computed separately for the main campus and any branch or extension of such institution pursuant to regulations prescribed by the Administrator under section 1673(d) of this title) were students receiving educational assistance benefits under this chapter or chapter 31, 32, 35, or 36 of this title; and

(8) the State (or local governmental unit with jurisdiction over the geographical area, or both such State and such unit) in which is located the educational institution in which such veteran was enrolled pays to the Veterans' Administration (for deposit in the Veterans' Administration Education Loan Fund established by section 1799 of this title) on such veteran's behalf an amount not more than the amount of accelerated payment which the Administrator is authorized to make on behalf of such veteran under this section, pursuant to a program established, within five years after the date of enactment of this section, by such State (or unit or both) to match the maximum or a lesser amount of the accelerated payment which the Administrator is authorized to make to any eligible veteran under this section, except that such State (or unit) may limit such program to veterans who are bona fide residents of such State (or unit).

(c) Accelerated payments made under this section by the Administrator and matching amounts paid to the Administrator by a State or local governmental unit, as described in subsection (b)(8) of this section, shall constitute a collection of principal on loans made under subchapter III of chapter 36 of this title and shall be deposited in the Veterans' Administration Education Loan Fund established by section 1799 of this title. The Administrator shall promptly notify each veteran on whose behalf such a principal collection and deposit has been made of the amount by which such collection and deposit reduces the principal repayment obligation of such veteran.

(d) In no event may the amount of accelerated payment made by the Administrator in connection with any school term exceed (1) an amount equal to the educational assistance allowance to which such veteran was otherwise entitled under section 1682 of this title for such school term, (2) an amount equal to 33⅓ per centum of the amount by which the expenses of tuition and fees are in excess of $700 for such school term, (3) an amount equal to 33⅓

per centum of the amount by which the amount of the outstanding obligation of such veteran under any loan made pursuant to section 1798 of this title is in excess of $700, or (4) the amount which the State (or local governmental unit or both) concerned pays to the Administrator to match the accelerated payment to be made by the Administrator on behalf of such veteran, whichever is the least amount.

(e) As used in this section, the term "school term" means—

(1) in the case of an institution of higher learning operating on a quarter system, three such consecutive quarters;

(2) in the case of an institution of higher learning operating on a semester system, two such consecutive semesters; or

(3) in the case of an educational institution not an institution of higher learning, or, in the case of an institution of higher learning not operating on a quarter or semester system, any time division, approved by the Administrator, of a program of education within which segments of the program are completed.

(Added Pub. L. 95-202, title II, § 201(a), Nov. 23, 1977, 91 Stat. 1436.)

REFERENCES IN TEXT

Five years after the date of enactment of this section, referred to in subsec. (b)(8), means five years after Nov. 23, 1977, the date of approval of Pub. L. 95-202 which enacted this section.

EFFECTIVE DATE

Section effective Jan. 1, 1978, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

NOTICE TO EDUCATIONAL INSTITUTIONS OF THE AVAILABILITY OF ACCELERATED PAYMENTS

Section 201(d) of Pub. L. 95-202 provided that: "The Administrator of Veterans' Affairs, not later than 60 days after the date of enactment of this Act [Nov. 23, 1977], shall notify each appropriate educational institution that accelerated payments (as provided for in subsection (a) of this section [which enacted this section] may be available for certain students enrolled at such institutions, specifying the full conditions and procedures governing such payments, and, not later than 90 days after such date of enactment, shall publish in the Federal Register, and notify each State of, the rules and regulations governing the accelerated payment program."

PRORATED PAYMENTS FOR 1978

Section 201(e) of Pub. L. 95-202 provided that: "Notwithstanding the provisions of section 1682A or section 1738 of title 38, United States Code, as added by subsections (a) and (b) of this section, eligible veterans and eligible persons entitled thereunder shall, in connection with a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978, be entitled to accelerated payment of educational assistance allowances upon application therefor, but the amounts of such accelerated payment which may be made in connection with any such semester or quarters, the number of months by which such veteran's or person's entitlement shall be reduced, and any quantifiable eligibility criteria shall be appropriately prorated by the Administrator of Veterans' Affairs."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738, 1798 of this title.

§ 1685. Veteran-student services

(a) Veteran-students utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as "work-study allowance"). Such work-study allowance shall be paid in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher, in return for such veteran-student's agreement to perform services, during or between periods of enrollment, aggregating two hundred and fifty hours during a semester or other applicable enrollment period, required in connection with (1) the out-reach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Veterans' Administration employee, (2) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the Administrator shall determine appropriate. An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $2.50, whichever is the higher. A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the veteran-student's agreement to perform the number of hours of work specified in the agreement.

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95-202, title I, § 105, Nov. 23, 1977, 91 Stat. 1435.)

REFERENCES IN TEXT

Section 6(a) of the Fair Labor Standards Act of 1938, referred to in subsec. (a), is classified to section 206(a) of Title 29, Labor.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-202 substituted "Such work-study allowance shall be paid in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher," for "Such work-study allowance shall be paid in the amount of $625" and, in the provisions relating to periods of service of less than two hundred and fifty hours, substituted "amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the

number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $2.50, whichever in the higher" for "amount of the work-study allowance to be paid shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours" and "A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement to perform the number of hours of work specified in the agreement" for provisions setting a flat amount of $250 in advance or a lesser amount in the case of any agreement providing for periods of less than one hundred hours.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241, 243, 246, 1502 of this title; title 20 section 1070e-1.

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 246, 1661, 1673, 1698, 1789 of this title; title 20 section 1070e-1.

§ 1692. Special supplementary assistance

[*See main edition for text of* (*a*)]

(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed $69 per month, for a maximum of twelve months, or until a maximum of $828 is utilized, upon certification by the educational institution that—

[*See main edition for text of* (*1*) *to* (*3*)]

(As amended Pub. L. 95-202, title I, § 102(5), Nov. 23, 1977, 91 Stat. 1434.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 substituted "$69" and "$828" for "$65" and "$780", respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 246, 1733 of this title; title 20 section 1070e-1.

SUBCHAPTER VI—PREDISCHARGED EDUCATION PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 246, 1631, 1661, 1780, 1789 of this title; title 20 section 1070e-1.

§ 1696. Payment of educational assistance allowance

[*See main edition for text of* (*a*)]

(b) The educational assistance allowance of an eligible person pursuing education or training under this subchapter shall be computed at the rate of (1) the established charges for tuition and fees which the educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to pay, and the cost of books and supplies peculiar to the course which such educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to have, or (2) $311 per month for a full-time course, whichever is the lesser. Where it is determined that there is no same program, the Administrator shall establish appropriate rates for tuition and fees designed to allow reimbursement for reasonable costs for the education or training institution.

[*See main edition for text of* (*c*) *and* (*d*)]

(As amended Pub. L. 95-202, title I, § 102(6), Nov. 23, 1977, 91 Stat. 1434.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 substituted "$311" for "$292".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1698. Coordination with and participation by Department of Defense

[*See main edition for text of* (*a*)]

(b) Educational institutions and training establishments administered by or under contract to the Department of Defense providing education and training to persons serving on active duty with the Armed Forces shall, in accordance with regulations jointly prescribed by the Administrator and the Secretary of Defense, be approved for the enrollment of eligible persons only at such time as the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing such Department's plan for implementation of the program established under this subchapter (except that on-going programs of education and training at such institutions or establishments may be continued for ninety days after the date of enactment of this section and prior to the submission of such report), which plan shall include provision for—

[*See main edition for text of* (*1*) *to* (*4*)]

(As amended Pub. L. 95-202, title III, § 302(b), Nov. 23, 1977, 91 Stat. 1441.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 struck out provisions requiring the submission of periodic progress reports with respect to the implementation of the Department's plan for implementing the program established under this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

Sec.
1738. Accelerated payment of educational assistance allowances.

AMENDMENTS

1977—Pub. L. 95-202, title II, § 201(c)(2), Nov. 23, 1977, 91 Stat. 1438, added item 1738.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 104, 111, 243, 503, 618, 1502, 1673, 1682A, 1770, 1771, 1772, 1773, 1774, 1780, 1781, 1782, 1783, 1784, 1785, 1787, 1788, 1790, 1792, 1793, 1794, 1795, 1796, 2013, 3013 of this title; title 5 section 8525; title 20 section 1070a.

SUBCHAPTER I—DEFINITIONS

§ 1701. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 240, 1711, 1712, 1720, 1763, 1765, 1786, 1787, 1798 of this title.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 1712. Periods of eligibility

[*See main edition for text of* (*a*)]

(b)(1) No person made eligible by section 1701(a)(1)(B) or (D) of this chapter may be afforded educational assistance under this chapter beyond 10 years after whichever last occurs:

(A) the date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature, or

(B) the date of death of the spouse from whom eligibility is derived.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this chapter) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willfull misconduct, such person shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such person was prevented from initiating or completing such program of education.

[*See main edition for text of* (*c*) *to* (*e*)]

(f) Any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this chapter) shall be entitled to an additional period of eligibility for an education loan under subchapter III of chapter 36 of this title beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2) of this title.

(g) Any entitlement used by any eligible person as a result of eligibility under the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title shall be deducted from any entitlement to which such person may subsequently become entitled under the provisions of this chapter.

(As amended Pub. L. 95-202, title II, § 203(a)(2), (b)(2), Nov. 23, 1977, 91 Stat. 1439, 1440.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202, § 203(a)(2), designated existing provisions as par. (1) and former cls. (1) and (2) thereof as cls. (A) and (B), and added par. (2).

Subsec. (f). Pub. L. 95-202, § 203(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-202, § 203(b)(2), redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to May 31, 1976, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SUBCHAPTER III—PROGRAM OF EDUCATION

§ 1724. Discontinuance for unsatisfactory progress

The Administrator shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution such person is attending, the person's conduct or progress is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time an eligible person is not progressing at a rate that will permit such person to graduate within the approved length of the course based on the training time as certified to the Veterans' Administration, or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable in accordance with regulations. The Administrator may renew the payment of the educational assistance allowance only if the Administrator finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and

(2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to the person's aptitudes, interests, and abilities.

(As amended Pub. L. 95-202, title III, § 305(b)(1), Nov. 23, 1977, 91 Stat. 1443.)

AMENDMENTS

1977—Pub. L. 95-202 added provisions authorizing the Administrator to determine the veteran's progress to be satisfactory even though the veteran will graduate withing a length of time exceeding the approved length if the additional length of time is reasonable in accordance with regulations.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective on the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SUSPENSION OF IMPLEMENTATION OF 1976 AMENDMENT

For provisions directing the Administrator to suspend the implementation of the amendment to this section by section 307 of Pub. L. 94-502 in the case of any accredited educational institution which submits to the Administrator its course catalogue or bulletin and a certification that the policies and regulations described in cls. (6) and (7) of section 1776(b) of this title are being enforced by such institution, unless the Administrator finds that the catalog or bulletin fails to state fully and clearly the policies and regulations, and for that suspension to continue until the Administrator submits the report required under section 305(b)(2) of Pub. L. 95-202, see section 305(b)(4)(A) of Pub. L. 95-202, set out as a note under section 1674 of this title.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

§ 1732. Computation of educational assistance allowance

[*See main edition for text of* (*a*)]

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of $251 per month.

[*See main edition for text of* (*c*) *and* (*d*)]

(As amended Pub. L. 95-202, title I, § 103(1), Nov. 23, 1977, 91 Stat. 1434.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 substituted "$251" for "$235".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1738. Accelerated payment of educational assistance allowances

An eligible person shall be entitled to an accelerated payment of educational assistance allowances pursuant to the provisions of section 1682A of this title.

(Added Pub. L. 95-202, title II, § 201(b), Nov. 23, 1977, 91 Stat. 1437.)

EFFECTIVE DATE

Section effective Jan. 1, 1978, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

PRORATED PAYMENTS FOR 1978

Eligible veterans and eligible persons entitled under this section and section 1682A of this title, in connection with a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978, to be entitled to accelerated payment of educational assistance allowances upon application therefor, but the amounts of such accelerated payment which may be made in connection with any such semester or quarters, the number of months by which such veteran's or person's entitlement shall be reduced, and any quantifiable eligibility criteria to be appropriately prorated by the Administrator of Veterans' Affairs, see section 201(e) of Pub. L. 95-202, set out as a note under section 1682A of this title.

SUBCHAPTER V—SPECIAL RESTORATIVE TRAINING

§ 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of $311 per month. If the charges for tuition and fees applicable to any such course are more than $98 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $98 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $10.40 that the special training allowance paid exceeds the basic monthly allowance.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Pub. L. 95-202, title I, § 103(2), Nov. 23, 1977, 91 Stat. 1435.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-202 substituted "$311" for "$292", "$98" for "$92" in two places, and "$10.40" for "$9.76".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 243, 1502, 1641, 1652, 1661, 1662, 1670, 1673, 1681, 1682A, 1701, 1781, 1784, 1793, 1795, 2013 of this title.

SUBCHAPTER I—STATE APPROVING AGENCIES

§ 1774. Reimbursement of expenses

[*See main edition for text of* (*a*)]

(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$630.
Over $5,000 but not exceeding $10,000	$1,134.
Over $10,000 but not exceeding $35,000	$1,134 for the first $10,000 plus $1,050 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$6,862.
Over $40,000 but not exceeding $75,000	$6,862 for the first $40,000 plus $908 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$13,608.
Over $80,000	$13,608 for the first $80,000 plus $793 for each additional $5,000 or fraction thereof.

(c) Each State and local agency with which the Administrator contracts or enters into an agreement under subsection (a) of this section shall report to the Administrator on September 30, 1978, and periodically, but not less often than annually, thereafter, as determined by the Administrator, on the activities in the preceding twelve months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the Administrator shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 of this title and in supervising such institutions.

(As amended Pub. L. 95-202, title III, § 303, Nov. 23, 1977, 91 Stat. 1441.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202, § 303(1), increased the allowance for administrative expenses by substituting "$630" for "$600", "$1,134" for "$1,080" in two places, "$1,050" for "$1,000", "$6,862" for "$6,535" in two places, "$908" for "$865", "$13,608" for "$12,960" in two places, and "$793" for "$755".

Subsec. (c). Pub. L. 95-202, § 303(2), added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective on the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§ 1780. Payment of educational assistance or subsistence allowances

EX. ORD. NO. 12020. PAYMENT OF BENEFITS WHEN SCHOOLS ARE TEMPORARILY CLOSED TO CONSERVE ENERGY

Ex. Ord. No. 12020, Nov. 8, 1977, 42 F.R. 58509, provided:

By virtue of the authority vested in me by clause (A) of Section 1780(a) of Title 38 of the United States Code, and as President of the United States of America, in order to establish a national policy in regard to payment of educational benefits to veterans and their dependents during periods in which schools are closed to conserve energy, it is hereby ordered as follows:

SECTION 1. Whenever an educational institution submits evidence which satisfies the Administrator of Veterans' Affairs that energy consumption will be abnormally high during the winter months or that available energy supplies will be inadequate to meet the needs of the school, and that, in the interest of energy conservation, the institution plans to close between semesters or terms for a period not to exceed 45 days, the Administrator may continue to pay monthly educational assistance benefits to veterans and eligible persons enrolled in such schools. Such authority may be exercised only once during any 12-month period with respect to any educational institution.

SEC. 2. The Administrator shall advise veterans and other eligible persons of the effect of accepting educational assistance benefits under the provisions of Section 1 of this Order on their period of entitlement.

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1641, 1784, 1790, 1798 of this title.

§ 1784. Reports by institutions; reporting fee

[*See main edition for text of* (a)]

(b) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Administrator by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 34 or 35 of this title, or $11 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(5) of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 per centum from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to

be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

(As amended Pub. L. 95-202, title III, § 304(a)(1), Nov. 23, 1977, 91 Stat. 1442.)

AMENDMENTS

1977—Subsec. (b). substituted "$7" and "$11" for "$5" and "$6", respectively, and added provision that no reporting fee payable to an educational institution under this subsection be subject to offset by the Administrator against any liability of the institution for any overpayment for which the institution may be administratively determined to be liable under section 1785 of this title unless that liability is not contested by the institution or has been upheld by a final decree of a court of appropriate jurisdiction.

EFFECTIVE DATE OF 1977 AMENDMENT

Substitution of "$7" and "$11" for "$5" and "$6", respectively, in subsec. (b) of this section by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

Addition of provision in subsec. (b) of this section relating to the offset of overpayments by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1785, 1798 of this title.

§ 1785. Overpayments to eligible persons or veterans

Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran as the result of (1) the willful or negligent failure of an educational institution to report, as required by this chapter or chapter 34 or 35 of this title and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person or veteran, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of such institution, and may be recovered, except as otherwise provided in section 1784(b) of this title, in the same manner as any other debt due the United States. Any amount so collected shall be reimbursed if the overpayment is recovered from the eligible person or veteran. This section shall not preclude the imposition of any civil or criminal liability under this or any other law. Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(As amended Pub. L. 95-202, title III, § 304(a)(2), Nov. 23, 1977, 91 Stat. 1442.)

AMENDMENTS

1977—Pub. L. 95-202 inserted ", except as otherwise provided in section 1784(b) of this title," after "recovered" in the first sentence, and added last sentence providing that nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance for any course leading to a standard college degree.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1784 of this title.

§ 1786. Correspondence courses

(a)(1) Each eligible veteran (as defined in section 1652(a)(1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 90 per centum of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term "established charge" as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $311 which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 95-202, title I, § 104(1), Nov. 23, 1977, 91 Stat. 1435.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-202 substituted "$311" for "$292".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1787. Apprenticeship or other on-job training

[*See main edition for text of (a)*]

(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$226	$254	$277	$12
Second 6 months	169	197	221	12
Third 6 months	113	141	164	12
Fourth and any succeeding 6-month periods	56	84	108	12

[*See main edition for text of (2) and (3); (c)*]

(As amended Pub. L. 95-202, title I, § 104(2), Nov. 23, 1977, 91 Stat. 1435.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-202 increased the monthly training assistance allowance of eligible veterans in column II from $212, $159, $106, and $53 to $226, $169, $113, and $56; in column III from $238, $185, $132, and $79 to $254, $197, $141, and $84; in column IV from $260, $207, $154, and $101 to $277, $221, $164, and $108; in column V from $11, $11, $11, and $11 to $12, $12, $12, and $12, respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1788. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 1775 of this title, then 22 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time;

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction and not more than 5 hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 1775 of this title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

[*See main edition for text of (3) to (6)*]

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-202, title III, § 304(a)(3), Nov. 23, 1977, 91 Stat. 1442.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-202, § 304(a)(3)(A), (B), substituted "two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 1775 of this title, then 22 hours per week of attendance" for "two and one-half hours of rest periods per week allowed, but if such course is approved pursuant to section 1775 of this title, then 27 hours per week of attendance".

Subsec. (a)(2). Pub. L. 95-202, § 304(a)(3)(C), (D), substituted "minimum of twenty-five hours per week net of instruction and not more than 5 hours of supervised study" for "minimum of twenty-five hours per week net of instruction" and "18 hours per week" for "22 hours per week".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective on the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1789. Period of operation for approval

[*See main edition for text of (a)*]

(b) Subsection (a) shall not apply to—

[*See main edition for text of (1) to (6)*]

The Administrator may waive the requirements of clause (6) of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(c) Notwithstanding the provisions of subsection (b)(1), (2), (3), or (4) of this section, the

provisions of subsection (a) shall apply to any course offered by a branch or extension of—

[*See main edition for text of (1) and (2)*]

The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(As amended Pub. L. 95-202, title III, § 305(a)(1), Nov. 23, 1977, 91 Stat. 1442.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202, § 305(a)(1)(A), authorized the Administrator to waive the requirements of cl. (6) in whole or in part if the Administrator determines, pursuant to regulations which the Administrator prescribes, that it is in the interest of the eligible veteran and the Federal Government.

Subsec. (c). Pub. L. 95-202, § 305(a)(1)(B), authorized the Administrator to waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator prescribes, that it is in the interest of the eligible veteran and the Federal Government.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective the first day of the first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

[*See main edition for text of (a)*]

Discontinuance of Allowances

(b)(1) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Administrator finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Administrator finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

(2) Any action by the Administrator under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons therefor such action and an opportunity to be heard thereon.

[*See main edition for text of (c) and (d)*]

(As amended Pub. L. 95-202, title III, § 306, Nov. 23, 1977, 91 Stat. 1445.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

§ 1792. Advisory committee

STUDY OF EDUCATIONAL ASSISTANCE PROGRAMS FOR VETERANS, SURVIVORS, AND DEPENDENTS; SUBMISSION TO CONGRESS AND PRESIDENT BY SEPTEMBER 30, 1979

Pub. L. 95-202, title III, § 304(b), Nov. 23, 1977, 91 Stat. 1442, provided that:

"(1) The Administrator of Veterans' Affairs, in consultation with the Advisory Committee formed pursuant to section 1792 of title 38, United States Code, shall provide for the conduct of an independent study of the operation of the programs of educational assistance carried out under chapters 34 and 36 of title 38, United States Code. Such study shall include a detailed examination and analysis of the extent to which eligible veterans (A) have utilized their entitlements (broken down by State, type of program, and post-Korean-Conflict-pre-Vietnam-era and Vietnam-era service periods), including the extent to which they have successfully completed their programs of education or attained their educational or vocational objectives; and (B) have readjusted successfully to civilian life in terms of employment achievement and satisfaction and family and other interpersonal relationships. A report of such study shall be submitted to the President and the Congress not later than September 30, 1979.

"(2) For the purposes of carrying out paragraph (1) of this subsection, there are authorized to be appropriated $2,000,000."

SUBCHAPTER III—EDUCATION LOANS TO ELIGIBLE VETERANS AND ELIGIBLE PERSONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1631, 1662, 1682A, 1712 of this title.

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

[*See main edition for text of (a)*]

(b)(1) Subject to paragraph (3) of this subsection, the amount of the loan to which an eligible veteran or eligible person shall be entitled under this subchapter for any academic year shall be equal to the amount needed by such veteran or person to pursue a program of education at the institution at which the veteran or person is enrolled, as determined under paragraph (2) of this subsection.

[*See main edition for text of (2)*]

(3) The aggregate of the amounts any veteran or person may borrow under this subchapter may not exceed $311 multiplied by the number of months such veteran or person is entitled to receive educational assistance under section

1661 or subchapter II of chapter 35, respectively, of this title, but not in excess of $2,500 in any one regular academic year.

(c) An eligible veteran or person shall be entitled to a loan under this subchapter if such veteran or person—

(1) is in attendance at an educational institution on at least a half-time basis and (A) is enrolled in a course leading to a standard college degree, or (B) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the Administrator may waive the requirements of subclause (B) of this clause, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government; and

(2) enters into an agreement with the Administrator meeting the requirements of subsection (d) of this section.

No loan shall be made under this subchapter to an eligible veteran or person pursuing a program of correspondence, flight, apprentice or other on-job, or PREP training.

[*See main edition for text of* (*d*)]

(e)(1) Except as provided in paragraph (2) of this subsection, whenever the Administrator determines that a default has occurred on any loan made under this subchapter, the Administrator shall declare an overpayment, and such overpayment shall be recovered from the veteran or person concerned in the same manner as any other debt due the United States.

[*See main edition for text of* (*2*)]

(3) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than one year after the date of enactment of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 and annually thereafter, a separate report specifying the default experience and default rate at each educational institution along with a comparison of the collective default experience and default rate at all such institutions, separately with respect to loans made under this section the repayment of which is accelerated under section 1682A of this title and loans made under this section the repayment of which is not so accelerated.

(f)(1) At the time of application by any eligible veteran for a loan under this section, such veteran shall assign to the benefit of the Veterans' Administration (for deposit in the Veterans' Administration Education Loan Fund established under section 1799 of this title) the amount of any accelerated payment to which such eligible veteran may become entitled from the Administrator and any matching contribution by a State or local governmental unit pursuant to section 1682A(b)(8) of this title in connection with the school term for which such veteran has applied.

(2) Payment of a loan made under this section shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)(5) of this title for purposes of section 1784(b) of this title.

(3) For purposes of this subsection, the term "eligible veteran" includes eligible person as such term is defined in section 1701(1) of this title.

(As amended Pub. L. 95-202, title I, § 104(3), title II, § 202, Nov. 23, 1977, 91 Stat. 1435, 1438, 1439.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-202, §§ 104(3), 202(1), substituted "$311" for "$292" and "$2,500" for "$1,500".

Subsec. (c)(1). Pub. L. 95-202, § 202(2)(A), authorized the Administrator to waive the requirements of subclause (B), in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator prescribes, that it is in the interest of the eligible veteran and the Federal Government.

Subsec. (c)(2). Pub. L. 95-202, § 202(2)(B), redesignated subsec. (c)(3) as (c)(2). Former subsec. (c)(2), directing that the agreement include a provision for acceleration of repayment of all or any part of the loan, without penalty, at the option of the borrower, was stricken.

Subsec. (c)(3). Pub. L. 95-202, § 202(2)(B), redesignated subsec. (c)(3) as (c)(2).

Subsec. (e)(3). Pub. L. 95-202, § 202(3), added "separately with respect to loans made under this section the repayment of which is accelerated under section 1682A of this title and loans made under this section the repayment of which is not so accelerated" following "default rate at all such institutions".

Subsec. (f). Pub. L. 95-202, § 202(4), added subsec. (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Substitution of "$311" for "$292" in subsec. (b)(3) of this section by Pub. L. 95-202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

Substitution of "$2,500" for "$1,500" in subsec. (b)(3), amendment of subsecs. (c) and (e)(3), and enactment of subsec. (f) of this section by Pub. L. 95-202 effective Jan. 1, 1978, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1682A, 1686, 1737, 1799 of this title.

§ 1799. Revolving fund; insurance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1682A, 1686, 1737, 1798 of this title.

CHAPTER 37—HOME, CONDOMINIUM, AND MOBILE HOME LOANS

SUBCHAPTER II—LOANS

§ 1819. Loans to purchase mobile homes and mobile home lots

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1811 of this title.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 1820. Powers of Administrator

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Administrator may—

(1) sue and be sued in the Administrator's official capacity in any court of competent jurisdiction, State or Federal, but nothing in this clause shall be construed as authorizing garnishment or attachment against the Administrator, the Veterans' Administration, or any of its employees;

[*See main edition for text of (2) to (6); (b) to (f)*]

(As amended Pub. L. 95-117, title IV, § 403(a), Oct. 3, 1977, 91 Stat. 1066.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-117 added prohibition relating to garnishment or attachment against the Administrator, etc.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 403(b) of Pub. L. 95-117 provided that: "The amendment made by subsection (a) of this section [amending subsec. (a)(1) of this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]".

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY; REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95-202, title III, § 311, Nov. 23, 1977, 91 Stat. 1449, provided that: "In accordance with the national policy to conserve energy and promote the maximum utilization of solar energy, the Administrator of Veterans' Affairs, in consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, shall conduct a study to determine the most effective specific methods of using the programs carried out under, or amending the provisions of, chapter 37 of title 38, United States Code, in order to aid and encourage present and prospective veteran homeowners to install in their homes solar heating, solar heating and cooling, or combined solar heating and cooling, and to apply residential energy conservation measures. The report of such study shall include a description of plans for administrative action to carry out such national policy as well as such recommendations for legislative action as the Administrator deems appropriate, and shall be submitted to the President and the Congress not later than March 1, 1978."

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

§ 1901. Definitions

For purposes of this chapter—

(1) The term "eligible person" means—

(A) any veteran entitled to compensation under chapter 11 of this title for any of the disabilities described in subclause (i), (ii), or (iii) below, if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service:

[*See main edition for text of (i) to (iii)*]

(B) any member of the Armed Forces serving on active duty who is suffering from any disability described in subclause (i), (ii), or (iii) of clause (A) of this paragraph if such disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service.

[*See main edition for text of (2)*]

(As amended Pub. L. 95-116, § 1(a), Oct. 3, 1977, 91 Stat. 1062.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-116 struck out in cls. (A) and (B) "on or after September 16, 1940" following "or air service".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1(b) of Pub. L. 95-116 provided that: "The amendment made by subsection (a) of this section [amending this section] shall become effective October 1, 1977."

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

§ 2007. Administrative controls; annual report

[*See main edition for text of (a) and (b)*]

(c) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, the number of recently discharged or released eligible veterans, veterans with service-connected disabilities, other eligible veterans, and eligible persons who request assistance through the public employment service and, of these, the number placed in suitable employment or job training opportunities or who were otherwise assisted, with separate reference to occupational training and public service employment under appropriate Federal law. The report shall also include any determination by the Secretary under section 2004, 2006, or 2007(a) of this title and a statement of the reasons for such determination.

(As amended Pub. L. 95-202, title III, § 309(b), Nov. 23, 1977, 91 Stat. 1446.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-202 directed that "2004" be substituted for "2001". Since subsec. (c) al-

ready contained a reference to "2004" not "2001", the amendment has been carried as a reenactment of subsec. (c) without change.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

§ 2011. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2014 of this title; title 29 section 803; title 42 section 6706.

§ 2014. Employment within the Federal Government

[*See main edition for text of* (a)]

(b) To further this policy, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Civil Service Commission shall prescribe, for veterans readjustment appointments up to and including the level GS-5, as specified in subchapter II of chapter 51 of title 5,[1] and subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that in applying the one-year period of eligibility specified in section 2(a) of such order to a veteran or disabled veteran who enrolls, within one year following separation from the Armed Forces or following release from hospitalization or treatment immediately following separation from the Armed Forces, in a program of education (as defined in section 1652 of this title) on more than a half-time basis (as defined in section 1788 of this title), the time spent in such program of education (including customary periods of vacation and permissible absences) shall not be counted. The eligibility of such a veteran for a readjustment appointment shall continue for not less than six months after such veteran first ceases to be enrolled therein on more than a half-time basis. No veterans readjustment appointment may be made under authority of this subsection after June 30, 1978. The Chairman of the Civil Service Commission shall submit to the President and the Congress, not later than six months after the date of enactment of the GI Bill Improvement Act of 1977, a report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in this subsection.

[*See main edition for text of* (c) *to* (f)]

(As amended Pub. L. 95-202, title III, § 308, Nov. 23, 1977, 91 Stat. 1445.)

REFERENCES IN TEXT

The date of enactment of the GI Bill Improvement Act of 1977, referred to in subsec. (b), is the date of enactment of Pub. L. 95-202, which was approved on Nov. 23, 1977.

[1] So in original. Probably should be "as specified in subchapter III of chapter 53 of title 5".

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-202 added provision directing the Chairman of the Civil Service Commission to report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in subsec. (b), with the report to be submitted to the President and Congress not later than six months after enactment of the GI Bill Improvement Act of 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as an Effective Date of 1977 Amendment note under section 101 of this title.

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

SUBCHAPTER III—PAYMENT OF BENEFITS

Sec.
3020. Payment of benefits; delivery.

AMENDMENTS

1977—Pub. L. 95-117, title IV, § 402(b)(2), Oct. 3, 1977, 91 Stat. 1066, struck out "by check" following "benefits" in item 3020.

SUBCHAPTER III—PAYMENT OF BENEFITS

§ 3020. Payment of benefits; delivery

[*See main edition for text of* (a) *to* (c)]

(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Administrator certifies such benefits for payment, monetary benefits under laws administered by the Veterans' Administration may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Administrator to be in the best interest of such payees and the management of monetary benefits programs by the Veterans' Administration.

(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Administrator shall, to the maximum extent practicable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.

(As amended Pub. L. 95-117, title IV, § 402(a), (b)(1), Oct. 3, 1977, 91 Stat. 1065.)

AMENDMENTS

1977—Pub. L. 95-117, § 402(b)(1), struck out "by check" following "benefits" in the section catchline.

Subsecs. (d), (e). Pub. L. 95-117, § 402(a), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 402(c) of Pub. L. 95-117 provided that: "The amendments made by this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]".

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

§ 3101. Nonassignability and exempt status of benefits

UNDUE HARDSHIP CASES

Pub. L. 95-202, title III, § 305(c), Nov. 23, 1977, 91 Stat. 1444, provided that:

"(1) Where an educational institution—

"(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such educational institution for a course offered (i) under the provisions of subchapter VI of chapter 34 of title 38, United States Code, or (ii) at a location not in a State under the provisions of section 1676 of title 38, United States Code, and which course was commenced by such veteran or eligible person prior to December 1, 1976, and completed not later than June 30, 1977; and

"(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check,

the Administrator may, where the Administrator finds there is undue hardship on such educational institution, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

"(2) Where an accredited correspondence school—

"(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such school for lessons completed by the veteran or eligible person under section 1786 of this title and serviced by the school prior to January 1, 1977; and

"(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such benefit check,

the Administrator may, where the Administrator finds that there is undue hardship on such educational institution and the courses were taken by veterans or eligible persons residing in a State, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe."

§ 3103. Certain bars to benefits

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence, or of an officer by the acceptance of his resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed, notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10.

[*See main edition for text of* (b) *to* (d)]

(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

(2) Notwithstanding any other provision of law—

(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to

the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person or such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.

(As amended Pub. L. 95-126, § 1(a), Oct. 8, 1977, 91 Stat. 1106.)

REFERENCES IN TEXT

President's Proclamation 4313 of Sept. 16, 1974, referred to in subsec. (e)(2)(A), is set out as a note under section 462 of Title 50, App., War and National Defense.

"Date of enactment of this paragraph" and "such enactment date", referred to in subsec. (e)(2)(B), mean Oct. 8, 1977, the date on which Pub. L. 95-126, § 1(a)(2), enacted subsec. (e) of this section.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-126, § 1(a)(1), added provisions barring a person in the Armed Forces from being a recipient of benefits when discharged on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence and barred benefits notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of Title 10.

Subsec. (e). Pub. L. 95-126, § 1(a)(2), added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95-126 provided that:

"This Act [amending this section and section 101(18) of this title and enacting provisions set out as notes under this section] shall become effective on the date of its enactment [Oct. 8, 1977], except that—

"(1) section 2 [set out as a note below] shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

"(2) the amendments made by section 1(a) [amending subsec.(a) and enacting subsec. (e) of this section] shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

"(A) with respect to any person who, on such enactment date [Oct. 8, 1977] is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of ninety days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of one hundred and eighty days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

"(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A) (i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date [Oct. 8, 1977], the United States shall not make any claim to recover the value of any benefits so provided; and

"(C) the amendments made by clause (1) of section 1(a) [to subsec. (a) of this section] shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act [Oct. 8, 1977], had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date [Oct. 8, 1977]) to all other persons."

EXPEDITED DETERMINATIONS AFTER INFORMATION AND NOTIFICATION TO PERSONS AWARDED GENERAL OR HONORABLE DISCHARGES; PROCEDURES FOR APPLICATION TO TITLE 10 § 1552 BOARD AND TO ADMINISTRATOR OF VETERANS' AFFAIRS.

Pub. L. 95-126, § 1(b), Oct. 8, 1977, 91 Stat. 1107, effective Oct. 8, 1977, provided that:

"(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act [amending this section and section 101(18) of this title and enacting provisions set out as notes under this section] for each such person.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans' Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of

the procedures for making application to such section 1552 board for such purpose and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552, and 1553)."

HEALTH CARE AND BENEFITS FOR DISABILITY DURING ACTIVE SERVICE IN LINE OF DUTY, EXCEPT WHEN BARRED UNDER SUBSEC. (a) OR BY BAD CONDUCT DISCHARGE

Pub. L. 95-126, § 2, Oct. 8, 1977, 91 Stat. 1107, effective Oct. 8, 1977, provided that: "Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge."

REGULATIONS RESPECTING STANDARDS AND PROCEDURES FOR DETERMINATION OF SEPARATION FROM ACTIVE SERVICE UNDER CONDITIONS OTHER THAN DISHONORABLE FREE OF UNIQUE OR SPECIAL ADVANTAGES OR SPECIAL DISTINCTIONS BETWEEN VETERANS

Pub. L. 95-126, § 4, Oct. 8, 1977, 91 Stat. 1108, effective Oct. 8, 1977, provided that: "In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act [amending this section and section 101(18) of this title and enacting provisions set out as notes under this section], not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharges under revised standards for the review of discharges described in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans."

PART V—BOARDS AND DEPARTMENTS

CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

SUBCHAPTER I—ORGANIZATION; GENERAL

§ 4104. Additional appointments

CONVERSION OF EMPLOYMENT STATUS OF PODIATRISTS AND OPTOMETRISTS IN DEPARTMENT OF MEDICINE AND SURGERY; RETROACTIVE EFFECT

Conversion of employment status of podiatrists and optometrists in Department of Medicine and Surgery from coverage under part III of Title 5, Government Organization and Employees, to coverage under provisions of this title, see section 5(b) of Pub. L. 95-201, set out as a note under section 4107 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4105, 4107, 4110, 4111, 4113, 4114 of this title.

§ 4105. Qualifications of appointees

[See main edition for text of (a) and (b)]

(c) Notwithstanding any other provision of law, no person may be appointed under section 4104(1) of this title after the effective date of this subsection to serve in the Department of Medicine and Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall prescribe, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily.

(As amended Pub. L. 95-201, § 4(a)(1), Nov. 23, 1977, 91 Stat. 1430.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (c), is Jan. 1, 1978, see section 4(a)(4) of Pub. L. 95-201, set out as a note below.

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-201 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 4(a)(4) of Pub. L. 95-201 provided that: "The amendments made by paragraphs (1) [amending subsec. (c) of this section] and (2) [amending section 4114(f) of this title] of this subsection shall be effective on January 1, 1978."

REQUIREMENTS RESPECTING BASIC PROFICIENCY IN SPOKEN AND WRITTEN ENGLISH OF APPOINTEES AFTER NOVEMBER 23, 1977

Section 4(a)(3) of Pub. L. 95-201 provided that: "Notwithstanding any other provision of law, with respect to persons other than those described in subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code (as added by paragraphs (1) and (2) of this subsection), who are appointed after the date of enactment of this Act [Nov. 23, 1977] in the Department of Medicine and Surgery in the Veterans' Administration in any direct patient-care capacity, and with respect to persons described in such subsections who are appointed after such enactment date and prior to January 1, 1978, the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director, shall take appropriate steps to provide reasonable assurance that such persons possess such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such persons to carry out their health-care responsibilities satisfactorily."

HEALTH-CARE PERSONNEL BASIC PROFICIENCY IN SPOKEN AND WRITTEN ENGLISH; REPORT TO CONGRESSIONAL COMMITTEES RESPECTING APPOINTMENT, ETC.

Section 4(b) of Pub. L. 95-201 provided that:

"Not later than April 1, 1978, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report (1) describing activities undertaken and the persons affected in order to carry out subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code (as added by paragraphs (1) and (2) of subsection (a) of this section), and subsections (a)(3) and (c) of this section [enacting provisions set out as a note under this section and

amending section 5001(h) of this title, respectively], and (2) providing—

"(A) a description of the extent to which there are persons employed by the Veterans' Administration, on or prior to the date of enactment of this Act [Nov. 23, 1977], in any direct patient-care capacity in the Department of Medicine and Surgery, who do not possess such basic proficiency in spoken and written English as produces the degree of communication with patients and other health-care personnel as is necessary to enable such persons to carry out their health-care responsibilities satisfactorily;

"(B) data describing the characteristics and categories of positions of any such persons; and

"(C) if, in the opinion of the Administrator, the description and data being provided pursuant to subclauses (A) and (B) of clause (2) of this subsection indicate that there is a problem with respect to the satisfactory performance of such health-care responsibilities arising from such lack of proficiency, a plan to promote the achievement of such proficiency as will enable the persons involved to carry out their health-care responsibilities satisfactorily as well as to deal with any need which the Administrator believes will exist to promote such proficiency on the part of persons appointed after such enactment date [Nov. 23, 1977] who the Administrator has reason to believe do not, in fact, possess such proficiency, including (i) the cost of implementing such plan in each of the succeeding five fiscal years, and (ii) the time periods in which such proficiency on the part of such persons (broken down by appropriate categories and characteristics) can be expected to be achieved."

§ 4107. Grades and pay scales

(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

SECTION 4103 SCHEDULE

Chief Medical Director, $54,000.

Deputy Chief Medical Director, $52,000.

Associate Deputy Chief Medical Director, $50,000.

Assistant Chief Medical Director, $48,654.

Medical Director, $42,066 minimum to $47,674 maximum.

Director of Nursing Service, $42,066 minimum to $47,674 maximum.

Director of Podiatric Service, $39,629 minimum to $50,197 maximum.

Director of Chaplain Service, $31,203 minimum to $39,523 maximum.

Director of Pharmacy Service, $31,203 minimum to $39,523 maximum.

Director of Dietetic Service, $31,203 minimum to $39,523 maximum.

Director of Optometric Service $31,203 minimum to $39,523 maximum.

(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

PHYSICIAN AND DENTIST SCHEDULE

Director grade, $36,338 minimum to $46,026 maximum.

Executive grade, $33,736 minimum to $43,861 maximum.

Chief grade, $31,309 minimum to $40,705 maximum.

Senior grade, $26,861 minimum to $34,916 maximum.

Intermediate grade, $22,906 minimum to $29,782 maximum.

Full grade, $19,386 minimum to $25,200 maximum.

Associate grade, $16,255 minimum to $21,133 maximum.

NURSE SCHEDULE

Director grade, $26,898 minimum to $34,971 maximum.

Assistant Director grade, $23,088 minimum to $30,018 maximum.

Chief grade, $19,700 minimum to $25,613 maximum.

Senior grade, $16,682 minimum to $21,686 maximum.

Intermediate grade, $13,996 minimum to $18,190 maximum.

Full grade, $11,614 minimum to $15,097 maximum.

Associate grade, $10,012 minimum to $13,018 maximum.

Junior grade, $8,572 minimum to $11,146 maximum.

CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

Chief grade, $33,789 minimum to $43,923 maximum.

Senior grade, $28,725 minimum to $37,347 maximum.

Intermediate grade, $24,308 minimum to $31,598 maximum.

Full grade, $20,442 minimum to $26,571 maximum.

Associate grade, $17,056 minimum to $22,177 maximum.

[*See main edition for text of (2); (c) to (f)*]

(As amended Pub. L. 95-201, § 5(a)(1), (2), Nov. 23, 1977, 91 Stat. 1432.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-201, § 5(a)(1), substituted "$39,629" for "$36,338" and "$50,197" for "$46,026". Subsec. (b)(1). Pub. L. 95-201, § 5(a)(2), substituted "$33,789" for "$31,309", "$43,923" for "$40,705", "$28,725" for "$26,861", "$37,347" for "$34,916", "$24,308" for "$22,906", "$31,598" for "$29,782", "$20,442" for "$19,386", "$26,571" for "$25,200" "$17,056" for "$16,255", and "$22,177" for "$21,133".

RETROACTIVE EFFECT OF 1977 AMENDMENT

Section 5(a)(3) of Pub. L. 95-201 provided that: "The amendments made by paragraphs (1) and (2) of this subsection [amending this section] shall be effective retroactive to the period beginning on October 21, 1976, and ending on October 8, 1977. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall establish retroactively for such period intermediate rates of basic pay between the minimum and maximum pay ranges prescribed in the salary schedule under the heading 'SECTION 4103 SCHEDULE' for the Director of Podiatric Service and in the 'CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE' in section 4107 of title 38, United States Code."

CONVERSION OF EMPLOYMENT STATUS OF PODIATRISTS AND OPTOMETRISTS IN DEPARTMENT OF MEDICINE AND SURGERY; RETROACTIVE EFFECT

Section 5(b) of Pub. L. 95-201 provided that: "Notwithstanding any other provision of law, each person employed in the Department of Medicine and Surgery in the Veterans' Administration as a podiatrist or optometrist shall be converted from employment under part III of title 5, United States Code, to full-time employment under section 4104(1), or temporary full-time employment or part-time employment under section 4114(a)(1)(A), of title 38, United States Code, and each such conversion (including application of the applicable rates of basic pay provided for in the amendments made by subsection (a) of this section) [amending this section and enacting provision set out as a note hereunder] shall be effective retroactive to October 21, 1976, or the most recent date of appointment in the Department of Medicine and Surgery of the employee concerned under such part III, whichever is the later."

ADJUSTMENT OF PAY RATES EFFECTIVE OCT. 1, 1977

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 5332 of Title 5, Government Organization and Employees, provided for an adjustment of pay rates under this section effective Oct. 1, 1977. See Schedule set out below:

	Minimum	Maximum
Section 4103 Schedule:		
Chief Medical Director	single rate	$65,317***
Deputy Chief Medical Director	single rate	62,657**
Associate Deputy Chief Medical Director.	single rate	60,014*
Assistant Chief Medical Director	single rate	58,245*
Medical Director	$49,696*	56,324*
Director of Nursing Service	49,696*	56,324*
Director of Podiatric Service	42,423	53,735*
Director of Chaplain Service	42,423	53,735*
Director of Pharmacy Service	42,423	53,735*
Director of Dietetic Service	42,423	53,735*
Director of Optometric Service	42,423	53,735*
Physician and Dentist Schedule:		
Director grade	$42,423	$53,735*
Executive grade	39,172	50,926*
Chief grade	36,171	47,025
Senior grade	30,750	39,975
Intermediate grade	26,022	33,825
Full grade	21,883	28,444
Associate grade	18,258	23,739
Nurse Schedule:		
Director grade	$36,171	$47,025
Assistant Director grade	30,750	39,975
Chief grade	26,022	33,825
Senior grade	21,883	28,444
Intermediate grade	18,258	23,739
Full grade	15,090	19,617
Associate grade	12,986	16,883
Junior grade	11,101	14,431
Clinical Podiatrist and Optometrist Schedule:		
Chief grade	$36,171	$47,025
Senior grade	30,750	39,975
Intermediate grade	26,022	33,825
Full grade	21,883	28,444
Associate grade	18,258	23,739

*Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $47,500.

**Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level IV of the Executive Schedule which is, as of the effective date of this schedule, $50,000.

***Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level III of the Executive Schedule which is, as of the effective date of this schedule, $52,500.

EXECUTIVE ORDER NO. 11941

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, set out as a note under section 5332 of Title 5, Government Organization and Employees, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, set out as a note under section 5332 of Title 5.

§ 4114. Temporary full-time, part-time, and without compensation appointments; residences or internships

[*See main edition for text of* (a) *to* (e)]

(f) No person may be appointed under this section after the effective date of this subsection to an occupational category described in section 4104(1) of this title or in subsection (b) of this section unless such person meets the requirements established in section 4105(c) of this title and regulations prescribed thereunder.

(As amended Pub. L. 95-201, § 4(a)(2), Nov. 23, 1977, 91 Stat. 1430.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (f), is Jan. 1, 1978, see Effective Date of 1977 Amendment note, set out below.

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-201 added subsec. (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-201 effective Jan. 1, 1978, see section 4(a)(4) of Pub. L. 95-201, set out as an Effective Date of 1977 Amendment note under section 4105 of this title.

REQUIREMENTS RESPECTING BASIC PROFICIENCY IN SPOKEN AND WRITTEN ENGLISH OF APPOINTEES AFTER NOVEMBER 23, 1977

Administrator to take appropriate steps to provide reasonable assurance of basic proficiency in spoken and written English of appointees after Nov. 23, 1977, see section 4(a)(3) of Pub. L. 95-201, set out as a note under section 4105 of this title.

CONVERSION OF EMPLOYMENT STATUS OF PODIATRISTS AND OPTOMETRISTS IN DEPARTMENT OF MEDICINE AND SURGERY; RETROACTIVE EFFECT

Conversion of employment status of podiatrists and optometrists in Department of Medicine and Surgery from coverage under part III of Title 5, Government Organization and Employees, to coverage under provisions of this title, see section 5(b) of Pub. L. 95-201, set out as a note under section 4107 of this title.

§ 4118. Special pay for physicians and dentists

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which the Administrator shall prescribe hereunder, shall provide, in addition to any pay or allowance to which such physician or dentist is entitled, special pay in an amount not more than (A) $13,500 per annum to any physician employed in the Department of Medicine and

Surgery, or (B) $6,750 per annum to any dentist so employed, except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration, of a written agreement by such physician or dentist to complete a specified period of service in the Department.

[*See main edition for text of* (2)]

(3) The Chief Medical Director, in accordance with such regulations, may determine categories of positions applicable to both physicians and dentists in the Department of Medicine and Surgery as to which there is no significant recruitment and retention problem. Physicians and dentists serving in such positions shall not be eligible for special pay under this section. Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with such regulations, and, in the event any such determination was made more than one year prior to the date of enactment of this sentence, the Chief Medical Director shall make such redetermination not later than ninety days after such enactment date.

[*See main edition for text of* (b) *to* (d)]

(e)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years. Any physician or dentist who entered into an agreement under this section and has not failed to refund any amount which such physician or dentist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section. Notwithstanding the provisions of the preceding two sentences, no agreement entered into under this section shall extend beyond September 30, 1981, and any agreement entered into under this section after September 30, 1980, may be for a period of less than one year if the expiration date thereof is September 30, 1981.

(2)(A) Any such agreement shall provide that the physician or dentist, in the event that such physician or dentist voluntarily, or because of misconduct, fails to complete at least one year of service, or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (a) of this section, that such failure is necessitated by circumstances beyond the control of the physician or dentist.

[*See main edition for text of* (B), (3) *and* (4); (f)]

(As amended Pub. L. 95-201, § 3(a), Nov. 23, 1977, 91 Stat. 1429.)

REFERENCES IN TEXT

One year prior to the date of enactment of this sentence, referred to in subsec. (a)(3), means one year prior to Nov. 23, 1977, the date of approval of Pub. L. 95-201, which enacted such sentence.

Ninety days after such enactment date, referred to in subsec. (a)(3), means ninety days after Nov. 23, 1977.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-201, § 3(a)(1), substituted "the Administrator shall" for "he shall", "duration, of" for "duration of,", and "specified period" for "specified number of years".

Subsec. (a)(3). Pub. L. 95-201, § 3(a)(2), added provisions relating to redeterminations by the Chief Medical Director, and substituted "in accordance with" for "pursuant to".

Subsec. (e)(1). Pub. L. 95-201, § 3(a)(3), added provisions relating to agreements following agreements for refunds.

Subsec. (e)(2)(A). Pub. L. 95-201, § 3(a)(4), added", or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection," following "service" and substituted "determines, in accordance with regulations prescribed under subsection (a) of this section," for ", pursuant to the regulations prescribed under this section, determines".

REEVALUATION OF SPECIAL PAY AGREEMENTS PROGRAM; REPORT TO CONGRESS; REGULATION REDUCING AMOUNT OF PRIMARY SPECIAL PAY

Section 3(b) of Pub. L. 95-201 provided that: "Prior to the execution after April 30, 1978, of any written agreement entered into with a physician or dentist under section 4118 of title 38, United States Code (as amended by subsection (a) of this section) [amending subsecs. (a) and (e) of this section], (1) the Chief Medical Director of the Veterans' Administration shall reevaluate, in view of the executive level pay increase made pursuant to section 225 of the Federal Salary Act of 1967 [section 351 et seq. of Title 2, The Congress], effective February 27, 1977, with respect to the Veterans' Administration, the need for special-pay agreements, as authorized in such section 4118, in order to recruit and retain highly qualified physicians or dentists in each category of positions in the Department of Medicine and Surgery, and report to Congress not later than April 30, 1978, on the results of such reevaluation with respect to each such category; and (2) notwithstanding such section 4118, the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director and based upon such reevaluations, may promulgate a regulation reducing the amount of primary special pay for any such category to the extent the Administrator finds such primary special pay is not necessary to recruit and retain highly qualified physicians or dentists in such category. If a determination is made to reduce the amount of such primary special pay for any such category, the regulation promulgating the reduction shall be published in the Federal Register not less than thirty days prior to its effective date."

RETROACTIVE SPECIAL PAY AGREEMENTS

Section 3(c) of Pub. L. 95-201 provided that: "The Administrator, not later than thirty days after the date of enactment of this Act [Nov. 23, 1977], may enter into, under section 4118 of title 38, United States Code (as amended by subsection (a) of this section) [amending subsecs. (a) and (e) of this section], with any otherwise eligible physician or dentist who was appointed to a position in the Department of Medicine and Surgery in the Veterans' Administration during the period beginning on October 1, 1977, and ending on the date of enactment of this Act, a special-pay agreement providing for the payment of special pay to

such physician or dentist retroactive to the date such physician or dentist was appointed to such position."

SPECIAL PAY AGREEMENTS

Section 6(a)(2) of Pub. L. 94-123, as amended by Pub. L. 94-581, title I, § 112, Oct. 21, 1976, 90 Stat. 2852; Pub. L. 95-201, § 2, Nov. 23, 1977, 91 Stat. 1429, provided that: "No agreement to provide special pay may be entered into pursuant to section 4118 of title 38, United States Code (as added by section 2(d)(1) of this Act) after September 30, 1978."

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

§ 4134. Coordination; reports

TRANSFER OF FUNCTIONS

The Office of Drug Abuse Policy, referred to in subsec. (a), was abolished and functions of the Director thereof were transferred to the President with power to delegate within the Executive Office of the President by Reorg. Plan No. 1 of 1977, §§ 3, 5C, 42 F.R. 56101, 91 Stat. 1633, 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President.

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

AMENDMENTS

1977—Pub. L. 95-62, § 4(c), July 5, 1977, 91 Stat. 263, substituted "Domiciliary, Nursing Home, and Hospital Care" for "Nursing Home Care" in heading for subchapter III.

SUBCHAPTER I—PROVISIONS RELATING TO HOSPITALS AND HOMES

§ 5001. Hospital and domiciliary facilities

[*See main edition for text of* (*a*) *to* (*g*)]

(h) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendation of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(As amended Pub. L. 95-201, § 4(c), Nov. 23, 1977, 91 Stat. 1431.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-201 added subsec. (h).

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

AMENDMENTS

1977—Pub. L. 95-62, § 4(a), July 5, 1977, 91 Stat. 263, substituted "Domiciliary, Nursing Home, and Hospital Care" for "Nursing Home Care" in the subchapter heading.

§ 5031. Definitions

For the purpose of this subchapter—

[*See main edition for text of* (*a*) *and* (*b*)]

(c) The term "construction" means the construction of new domiciliary or nursing home buildings, the expansion, remodeling, or alteration of existing buildings for the provision of domiciliary, nursing home, or hospital care in State homes, and the provision of initial equipment for any such buildings.

(d) The term "cost of construction" means the amount found by the Administrator to be necessary for a construction project, including architect fees, but excluding land acquisition costs.

(As amended Pub. L. 95-62, § 3(1), (2), July 5, 1977, 91 Stat. 262.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-62, § 3(1), added the construction of new domiciliary buildings, the expansion, remodeling, or alteration of existing domiciliary and hospital buildings, and the provision of initial equipment for any such buildings to the definition of "construction".

Subsec. (d). Pub. L. 95-62, § 3(2), struck out provisions which had limited the definition of "cost of construction" to the cost of construction of nursing home facilities.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95-62 provided that:

"(a) Except as provided in subsection (b) of this section, the amendments made by this Act [amending sections 5031 to 5036 of this title and repealing section 644 of this title] shall be effective October 1, 1977.

"(b)(1) The terms and conditions of any grant made prior to October 1, 1977, under section 644 of title 38, United States Code, and regulations prescribed thereunder, shall remain in full force and effect unless modified, by the mutual agreement of the parties, in accordance with the provisions of subchapter III of chapter 81 of such title, and regulations prescribed thereunder, in effect after September 30, 1977.

"(2) With respect to any grant made prior to October 1, 1977, under subchapter III of chapter 81 of such title, the Administrator of Veterans' Affairs shall, upon application of a grantee, modify the terms and conditions of such grant to comply with the provisions of such subchapter as amended by this Act, and regulations prescribed thereunder, and shall promptly notify each such grantee of the grantee's right to request such modification."

SHORT TITLE OF 1977 AMENDMENT

For Short Title of Pub. L. 95-62, see Short Title of 1977 Amendment note, set out under section 101 of this title.

§ 5032. Declaration of purpose

The purpose of this subchapter is to assist the several States to construct State home

facilities for furnishing domiciliary or nursing home care to veterans, and to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes.

(As amended Pub. L. 95-62, § 3(3), July 5, 1977, 91 Stat. 262.)

AMENDMENTS

1977—Pub. L. 95-62 added references to the construction of State home facilities for furnishing of domiciliary care and to the expansion, remodeling, and alteration of existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as an Effective Date of 1977 Amendment note under section 5031 of this title.

§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1978, and a like sum for the succeeding fiscal year. Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

(As amended Pub. L. 95-62, § 3(4), July 5, 1977, 91 Stat. 262.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-62 substituted "$15,000,000 for the fiscal year ending September 30, 1978, and a like sum for the succeeding fiscal year" for "$5,000,000 for the fiscal year ending June 30, 1965, and a like sum for each of the fourteen succeeding fiscal years" and "applications for carrying out the purposes and meeting the requirements of this subchapter" for "applications for carrying out the purposes of section 5032 of this title".

Subsec. (b). Pub. L. 95-62 substituted "shall remain available until expended" for "shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as an Effective Date of 1977 Amendment note under section 5031 of this title.

§ 5034. General regulations

Within six months after the date of enactment of this section or any amendment to it with respect to such amendment, the Administrator shall prescribe the following by regulation:

(1) The number of beds required to provide adequate nursing home care to veterans residing in each State, which number shall not exceed two and one-half beds per thousand veteran population in the case of any State.

(2) General standards of construction, repair, and equipment for facilities constructed with assistance received under this subchapter.

(3) General standards for the furnishing of care in facilities which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620(b) of this title. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to insure that such facility meets such standards.

(As amended Pub. L. 95-62, § 3(5), (6), July 5, 1977, 91 Stat. 262.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-62, § 3(5), substituted "repair, and equipment for facilities constructed" for "repairs, modernization, alteration, and equipment for facilities for furnishing nursing home care which are constructed".

Par. (3). Pub. L. 95-62, § 3(6), substituted "furnishing of care" for "furnishing of nursing home care".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as an Effective Date of 1977 Amendment note under section 5031 of this title.

§ 5035. Applications with respect to projects: payments

(a) After regulations have been prescribed by the Administrator under section 5034 of this title, any State desiring to receive assistance for a project for construction of State home facilities must submit to the Administrator an application. Such application shall set forth—

[*See main edition for text of* (1) *to* (3)]

(4) reasonable assurance that upon completion of such project the facilities will be used principally to furnish to veterans the level of care for which such application is made and that not more than 25 per centum of the bed occupancy at any one time will consist of patients who are not receiving such level of care as veterans,

[*See main edition for text of (5) to (8)*]

(b) The Administrator shall approve any such application if the Administrator finds that—

[*See main edition for text of (1) and (2)*]

(3) the application contains such reasonable assurances under subsection (a) of this section as the Administrator may determine to be necessary, and

[*See main edition for text of (4)*]

(c) No application submitted to the Administrator under this section shall be disapproved until the Administrator has afforded the applicant notice and an opportunity for a hearing.

(d)(1) Upon approving an application under this section, the Administrator shall certify to the Secretary of the Treasury the amount of the grant so approved, but in no event an amount greater than 65 per centum of the estimated cost of construction of the project, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for the construction of an approved project shall be used solely for carrying out such project as so approved.

(2) No one State may receive in any fiscal year in the aggregate under this subchapter more than one-third of the amount appropriated for carrying out this subchapter in such fiscal year.

(e) Any amendment of any application, whether or not approved, shall be subject to approval in the same manner as an original application.

(As amended Pub. L. 95-62, § 3(7)-(12), July 5, 1977, 91 Stat. 262, 263.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-62, § 3(7), (8), substituted in provisions preceding par. (1), "State home facilities must submit" for "State home facilities for furnishing nursing home care must submit" and, in par. (4), "to furnish to veterans the level of care for which such application is made and that not more than 25 per centum of the bed occupancy at any one time will consist of patients who are not receiving such level of care as war veterans" for "to furnish nursing home care to veterans and that not more than 10 per centum of the bed occupancy at any one time will consist of patients who are not receiving nursing home care as veterans".

Subsec. (b)(3). Pub. L. 95-62, § 3(9), substituted "reasonable assurances under subsection (a) of this section as the Administrator" for "reasonable assurances as to use, title, financial support, reports and access to records, and payment of prevailing rates of wages, as the Administrator".

Subsec. (c). Pub. L. 95-62, § 3(10), substituted "afforded the applicant notice and an opportunity for a hearing" for "afforded the applicant an opportunity for a hearing".

Subsec. (d). Pub. L. 95-62, § 3(11), designated existing provisions as par. (1), substituted "the Administrator shall certify to the Secretary of the Treasury the amount of the grant so approved" for "the Administrator shall certify to the Secretary of the Treasury the amount of the grant requested with respect to such project in such application" in par. (1) as so designated, and added par. (2).

Subsec. (e). Pub. L. 95-62, § 3(12), substituted "amendment of any application, whether or not approved," for "amendment of any approved application".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as an Effective Date of 1977 Amendment note under section 5031 of this title.

§ 5036. Recapture provisions

If, within twenty years after completion of any project for construction with respect to which a grant has been made under this subchapter (except that the Administrator, pursuant to regulations which the Administrator shall prescribe, may at the time of such grant provide for a shorter period than twenty, but not less than seven, years, based on the magnitude of the project and the grant amount involved, in the case of the expansion, remodeling, or alteration of existing facilities), such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing domiciliary, nursing home, or hospital care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 per centum of the then value of such construction (but in no event an amount greater than the amount of assistance provided for such construction under this subchapter), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facilities are situated.

(As amended Pub. L. 95-62, § 3(13), July 5, 1977, 91 Stat. 263.)

AMENDMENTS

1977—Pub. L. 95-62 substituted "If, within twenty years after completion of any project for construction with respect to which a grant has been made under this subchapter (except that the Administrator, pursuant to regulations which the Administrator shall prescribe, may at the time of such grant provide for a shorter period than twenty, but not less than seven, years, based on the magnitude of the project and the grant amount involved, in the case of the expansion, remodeling, or alteration of existing facilities), such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing domiciliary, nursing home, or hospital care to veterans, the United States shall be entitled to recover from the State which was the re-

cipient of the grant under this subchapter, or from the then owner of such facilities, 65 per centum of the then value of such construction (but in no event an amount greater than the amount of assistance provided for such construction under this subchapter)" for "If, within twenty years after completion of any project for construction of facilities for furnishing nursing home care with respect to which a grant has been made under this subchapter, such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing nursing home care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 per centum of the then value of such facilities".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as an Effective Date of 1977 Amendment note under section 5031 of this title.

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TITLE 39—POSTAL SERVICE

This title was enacted by Pub. L. 91-375, § 2, Aug. 12, 1970, 84 Stat. 719

PART IV—MAIL MATTER

CHAPTER 32—PENALTY AND FRANKED MAIL

§ 3202. Penalty mail

(a) Subject to the limitations imposed by sections 3204 and 3207 of this title, there may be transmitted as penalty mail—

[*See main edition for text of (1) to (4)*]

[(5) Repealed. Pub. L. 94-553, § 105(e), Oct. 19, 1976, 90 Stat. 2599.]

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 94-553, § 105(e), Oct. 19, 1976, 90 Stat. 2599.)

AMENDMENTS

1976—Subsec. (a)(5). Pub. L. 94-553 struck out subsec. (a)(5) which related to articles for copyright deposited with postmasters and addressed to the Register of Copyrights pursuant to section 15 of title 17.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

§ 3204. Restrictions on use of penalty mail

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 3206. Reimbursement for penalty mail service

(a) Except as provided in subsection (b) of this section, executive departments and agencies, independent establishments of the Government of the United States, and Government corporations concerned, shall transfer to the Postal Service as postal revenue out of any appropriations or funds available to them, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Postal Service, for matter sent in the mails by or to them as penalty mail under authority of section 3202 of this title.

(b) The Department of Agriculture shall transfer to the Postal Service as postal revenues out of any appropriations made to it for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clauses (1)(F) and (4) of section 3202(a) of this title.

(c) The Department of State shall transfer to the Postal Service as postal revenues out of any appropriations made to it for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (1)(C) and (D) of section 3202(a) of this title.

(As amended Pub. L. 94-553, § 105(e), Oct. 19, 1976, 90 Stat. 2599.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-553 substituted reference to "subsection (b)" for reference to "subsections (b) and (c)".

Subsec. (c). Pub. L. 94-553 redesignated former subsec. (d) as (c). Former subsec. (c), directing the Library of Congress, to transfer to the Postal Service as postal revenues out of any appropriations made to the Library for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (5) of section 3202(a) of this title, was stricken.

Subsec. (d). Pub. L. 94-553 redesignated former subsec. (d) as (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

CHAPTER 2—CAPITOL BUILDING AND GROUNDS

§ 166. Architect of Capitol; repairs of Capitol

STUDY AND REPORT ON UTILIZATION OF SPACE IN UNITED STATES CAPITOL AND HOUSE AND SENATE OFFICE BUILDINGS AND ANNEXES; DRAWINGS AND SPECIFICATIONS FOR RESTORATION AND EXTENSION OF WEST CENTRAL FRONT OF UNITED STATES CAPITOL; FUNDING, ETC.

Pub. L. 95-94, title III, § 301, Aug. 5, 1977, 91 Stat. 681, provided that: "The Architect of the Capitol is authorized and directed (1) to conduct a study of the utilization of space in the United States Capitol for the purpose of recommending and reporting to the Speaker of the House of Representatives and the President of the Senate and to the Committees on Appropriations of both Houses, and the Senate Committee on Rules and Administration, those offices which, by virtue of the functions performed therein, should be located in the Capitol and those offices which could be relocated to the House and Senate Office Buildings and Annexes; (2) to prepare drawings and specifications for restoration of the West Central Front of the United States Capitol in accordance with each of the various plans and alternatives proposed to the Committees on Appropriations during hearings on Legislative Branch Appropriations for 1978: and (3) to prepare drawings and specifications for extension of the West Central Front of the United States Capitol in accordance with the modified plan for extension of the West Central Front approved by the Commission for Extension of the United States Capitol on April 7, 1977; the drawings and specifications to be prepared in such detail as will enable the cost of such restoration proposals and extension proposal to be ascertained. The unexpended balance of appropriations heretofore appropriated under the heading, 'EXTENSION OF THE CAPITOL' shall be transferred immediately upon approval of this Act to a Commission on the West Central Front of the United States Capitol which shall be composed of the following: The Vice President of the United States, who shall be the Chairman, the Speaker of the House of Representatives, the Majority and Minority Leaders of the House of Representatives, and the Majority and Minority Leaders of the Senate. Such unexpended balances shall be available for (1) the conduct of such study and (2) the preparation of such drawings and specifications under the direction of the Commission on the West Central Front of the United States Capitol. The drawings and specifications shall be completed by March 1, 1978, and submitted for the approval of the Committees on Appropriations of the Senate and House of Representatives and the Commission on the West Central Front of the United States Capitol prior to the issuance of invitations to bid on the restoration or extension of the West Central Front of the United States Capitol."

§ 166a. Travel expenses

REPEATED

Pub. L. 95-94, title I, Aug. 5, 1977, 91 Stat. 672.

§ 210. Uniform, belts and arms; Capitol Police

The Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives shall select and regulate the pattern for a uniform for the Capitol police and watchmen, and furnish each member of the force with the necessary belts and arms, payable out of the contingent fund of the Senate and House of Representatives upon the certificate of the officers above named. Such arms so furnished shall be carried by each officer and member of the Capitol Police, while in the Capitol Buildings (as defined in section 193m(a)(1) of this title), and while within or outside of the boundaries of the United States Capitol Grounds (as defined in section 193a of this title), in such manner and at such times as the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives may, by regulations, prescribe.

(As amended Pub. L. 95-26, title I, § 112, May 4, 1977, 91 Stat. 87.)

AMENDMENTS

1977—Pub. L. 95-26 struck out "at a cost not to exceed twenty dollars per man," following "furnish each member of the force with the necessary belts and arms,".

§ 212a. Policing of Capitol Buildings and Grounds; powers of Capitol Police; arrests by District of Columbia police

EXTENSION OF UNITED STATES CAPITOL POLICE SUPERVISION

Pub. L. 95-175, Nov. 14, 1977, 91 Stat. 1362, provided: "That the supervision of the United States Capitol Police shall extend over that part or parts of the premises located at 600 Pennsylvania Avenue, Southeast, Washington, District of Columbia, leased by the Office of Technology Assessment. In carrying out such supervision, the United States Capitol Police shall have within such part or parts jurisdiction, concurrent with that of the Metropolitan Police of the District of Columbia, to provide security for the personnel and property of the Office of Technology Assessment within such leased premises, and to make arrest therein for the violation of the laws and regulations of the United States and the District of Columbia."

POLICE MOTOR VEHICLES USED BY INSTRUCTOR PERSONNEL WHILE ON ASSIGNMENT TO FEDERAL LAW ENFORCEMENT TRAINING CENTER

Pub. L. 95-26, title I, § 113, May 4, 1977, 91 Stat. 87, provided that: "The Chairman of the Capitol Police Board is authorized, subject to such conditions as he may impose, to authorize the assignment of a police motor vehicle for use by instructor personnel of the Capitol Police Force while assigned to the Federal Law Enforcement Training Center."

CHAPTER 3—PUBLIC BUILDINGS AND WORKS GENERALLY

§ 276a. Rate of wages for laborers and mechanics

ACT REFERRED TO IN OTHER SECTIONS

The Davis-Bacon Act [40 U.S.C. 276a to 276a-5] is referred to in sections 276a-7, 808 of this title; title 10 section 2304; title 12 sections 1701q, 1715c, 1749a; title 16 section 779e; title 20 sections 684, 954, 1232b; title 23 section 113; title 25 sections 450e, 458, 1633; title 29 sections 251 to 256, 258, 259, 262, 776, 895a, 964, 986; title 31 section 1243; title 33 section 1372; title 38 section 5035; title 39 section 410; title 40 App. section 402; title 41 sections 42, 258; title 42 sections 242m, 247d, 254c, 291e, 293a, 295d, 296a, 299d, 300j-9, 300o-3, 1437j, 1440, 1459, 1486, 1500c-3, 1592i, 2689j, 2930a, 2947, 2992a, 3041a, 3107, 3222, 3310, 3884, 3909, 3936, 4529, 5046, 5310, 6042, 6063, 6708, 6728, 6881, 6979, 7614; title 45 section 565; title 49 sections 1609, 1636, 1722; title 50 App. section 2281.

§ 276c. Regulations governing contractors and subcontractors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 808 of this title; title 16 section 779e; title 20 sections 684, 954, 1232b; title 25 section 450e; title 29 sections 776, 986; title 31 section 1243; title 33 section 1372; title 39 section 410; title 40 App. section 402; title 42 sections 242m, 247d, 254c, 291e, 293a, 295d, 296a, 299d, 300j-9, 300o-3, 1440, 1459, 1486, 1500c-3, 1592i, 2689j, 2930a, 2947, 2992a, 3041a, 3107, 3222, 3310, 3884, 3909, 4529, 5046, 5310, 6042, 6063, 6708, 6728, 6881, 6979, 7614; title 49 sections 1609, 1636; title 50 App. section 2281.

CHAPTER 9—NON-FEDERAL PUBLIC WORKS

SUBCHAPTER II—URBAN AND RURAL PLANNING

§ 461. Comprehensive planning

[See main edition for text of (a) to (d)]

(e) Maximum amount of grant; authorization of appropriations; limitations

A grant made under this section shall not exceed two-thirds of the estimated cost of the work for which the grant is made. There are authorized to be appropriated for the purposes of this section not to exceed $130,000,000 for the fiscal year 1975, not to exceed $150,000,000 for the fiscal year 1976, not to exceed $100,000,000 for the fiscal year 1977, and not to exceed $75,000,000 for the fiscal year 1978. Of the funds appropriated under this section, not to exceed an aggregate of $10,000,000 plus 5 per centum of the funds so appropriated may be used by the Secretary for studies, research, and demonstration projects, undertaken independently or by contract, for the development and improvement of techniques and methods for comprehensive planning and for the advancement of the purposes of this section, and for grants to assist in the conduct of studies and research relating to needed revisions in State statutes which create, govern, or control local governments and local governmental operations.

[See main edition for text of (f) to (n)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title I, § 112, 91 Stat. 1127.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-128 authorized appropriation of $75,000,000 for fiscal year 1978.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of Title 42, The Public Health and Welfare.

CHAPTER 10—MANAGEMENT AND DISPOSAL OF GOVERNMENT PROPERTY

SUBCHAPTER I—GENERAL PROVISIONS

§ 471. Congressional declaration of policy

ACT REFERRED TO IN OTHER SECTIONS

The Federal Property and Administrative Services Act of 1949 is referred to in sections 304, 311b, 472 to 476, 482, 483b to 484-1, 484b, 485, 486, 488, 492, 602a, 605, 752, 754 to 756, 758, 759 of this title; title 5 section 7342; title 7 sections 79, 2652; title 10 sections 2676, 7305, 9441; title 12 section 1788; title 14 sections 92, 93, 641; title 15 sections 205f, 714b; title 16 sections 1a-2, 79c, 160b, 430a-2, 441*l*, 460*l*-5, 460m-9, 460x-7, 460bb-2, 460ee, 460ff-1, 460hh-1, 505a, 590q-1, 793; title 20 section 1221e; title 22 sections 277d-36, 277e, 2358, 2581, 2876; title 25 sections 190, 293; title 30 section 4; title 31 sections 418, 489; title 33 section 578; title 42 sections 1592a, 1592d, 1961c-8, 2201, 2473, 4638; title 43 sections 1702, 1736; title 48 sections 1407c, 1685; title 49 sections 1323, 1344; title 50 sections 167a, 1651; title 50 App. sections 2281, 2393.

§ 472. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 2573, 2667; title 42 sections 1455, 7259; title 43 section 1702; title 44 section 2901; title 50 section 167a.

§ 474. Congress, departments, agencies, corporations, and persons exempted from provisions

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

SUBCHAPTER II—PROPERTY MANAGEMENT

§ 483a. Transfer of vessels between Departments

REPEATED

Pub. L. 95-111, title VIII, § 817, Sept. 21, 1977, 91 Stat. 902.

§ 486. Policies, regulations, and delegations

EX. ORD. NO. 11954. FEDERAL PROPERTY REVIEW

Ex. Ord. No. 11954, Jan. 7, 1977, 42 F.R. 2297, as amended by Ex. Ord. No. 12030, Dec. 15, 1977, 42 F.R. 63633, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and as President of the United States of America, it is hereby ordered as follows:

SEC. 1. All Executive agencies shall periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the Administrator of General Services pursuant to section 206 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 487), and this order.

SEC. 2. The Administrator of General Services shall issue standards and procedures, conduct surveys, and cause surveys to be conducted, to ensure that the real property holdings of Executive agencies shall continually be evaluated with special emphasis on the identification of properties that are not utilized, are under utilized, or are not being put to optimum use. The Administrator shall consult with appropriate Executive agencies in order to (a) identify real property that is excess or surplus to the needs of the Executive agencies, and (b) make such real property available for its most beneficial use under the various laws of the United States affecting such property.

SEC. 3. The Administrator of General Services shall report to the Director of the Office of Management and Budget with respect to any property or portion thereof which has not been reported excess to the requirements of the holding agency and which, in the judgment of the Administrator, is not utilized, is under utilized, or is not being put to optimum use, and which he recommends should be reported as excess property.

SEC. 4. The Director of the Office of Management and Budget shall review Federal real property policies and the objectives of the Executive branch of the Government; and, shall review the reports made by the Administrator of General Services pursuant to Section 3 of this Order, as well as other reports relating to resolving conflicting claims on, and alternate uses for, any property described in those reports, consistent with laws governing Federal real property. The Director shall submit such recommendations and cause reports to be submitted to the President as may be appropriate.

SEC. 5. Executive Order No. 11724 of June 25, 1973, is hereby superseded.

GERALD R. FORD.

EX. ORD. NO. 12030. TERMINATION OF FEDERAL PROPERTY COUNCIL

Ex. Ord. No. 12030, Dec. 15, 1977, 42 F.R. 63633, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Federal Property Council is terminated.

(b) Section 1 of Executive Order No. 11954 of January 7, 1977 [set out as a note above], which reconstituted the Federal Property Council, is revoked.

(c) Sections 2, 3, 4, 5, and 6 of Executive Order No. 11954 are redesignated as Sections 1, 2, 3, 4, and 5, respectively.

SEC. 2. In order to permit the Director of the Office of Management and Budget to resolve disputes concerning under-utilized real property, the provisions of Executive Order No. 11954 which were redesignated as Section 4 by Section 1(c) of this Order are amended to read as follows:

"SEC. 4. The Director of the Office of Management and Budget shall review Federal real property policies and the objectives of the Executive branch of the Government; and, shall review the reports made by the Administrator of General Services pursuant to Section 3 of this Order, as well as other reports relating to resolving conflicting claims on, and alternate uses for, any property described in those reports, consistent with laws governing Federal real property. The Director shall submit such recommendations and cause reports to be submitted to the President as may be appropriate."

JIMMY CARTER.

CHAPTER 18—NATIONAL VISITOR CENTER FACILITIES; CAPITOL GUIDE SERVICE

SUBCHAPTER IV—CAPITOL GUIDE SERVICE

§ 851. Capitol Guide Service

[*See main edition for text of (a) and (b)*]

(c) Duties of Capitol Guide Board; positions of Guide in Capitol Guide Service; establishment and revision; Chief, Deputy Chief, and Assistant Chief Guide and Guides: appointment, duties, pay, and termination of employment

The Capitol Guide Board is authorized—

[*See main edition for text of (1)*]

(2) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform their duties, a Chief Guide, a Deputy Chief Guide, and an Assistant Chief Guide, and, in addition, such number of Guides as may be authorized under subparagraph (1) of this subsection;

[*See main edition for text of (3) to (5); (d) to (j)*]

(As amended Pub. L. 95-94, title I, Aug. 5, 1977, 91 Stat. 671.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-94 added reference to Deputy Chief Guide.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-94 provided in part that the amendment to this section is effective Oct. 1, 1977.

TITLE 40—APPENDIX

The legislation in this Appendix is temporary and will terminate on October 1, 1979, pursuant to the provisions of section 405 of this Appendix

APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended by Pub. L. 89-670, § 8(b), (c), Oct. 15, 1966, 80 Stat. 942, 943; Pub. L. 90-103, title I, §§ 101-114, 116-123, Oct. 11, 1967, 81 Stat. 257-266; Pub. L. 90-448, title II, § 201(f), Aug. 1, 1968, 82 Stat. 502; Pub. L. 91-123, title I, §§ 101-111, Nov. 25, 1969, 83 Stat. 214-216; Pub. L. 91-258, title I, § 52(b)(5), May 21, 1970, 84 Stat. 235; Pub. L. 92-65, title II, §§ 202-214, Aug. 5, 1971, 85 Stat. 168-173; Pub. L. 94-188, title I, §§ 102-122, 124, Dec. 31, 1975, 89 Stat. 1079-1086; Pub. L. 95-193, § 1, Nov. 18, 1977, 91 Stat. 1412

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

§ 202. Demonstration health projects

[*See main edition for text of (a) and (b)*]

(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the costs of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this section, may be made for up to 100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project. For the next three years of operations such grants shall not exceed 75 per centum of such costs. The Federal contribution may be provided entirely from funds appropriated to carry out this section or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provisions of health and child development services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approved by the Commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project, except that transitional funding not to exceed 75 per centum of annual operating costs may be approved for not more than two additional years of operations for child development demonstrations if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations. No such grants shall be made unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. Notwithstanding section 104 of the Public Works and Economic Development Act of 1965 (79 Stat. 554; 42 U.S.C. 3134), a health-related facility constructed under title I of that Act may be a component of a demonstration health project eligible for operating grant assistance under this section.

[*See main edition for text of (d) and (e)*]

(As amended Pub. L. 95-193, § 1, Nov. 18, 1977, 91 Stat. 1412.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-193 inserted "except that transitional funding not to exceed 75 per centum of annual operating costs may be approved for not more than two additional years of operations for child development demonstrations if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations" following "the initial grant for operation of the project".

STUDY OF CHILD DEVELOPMENT PROGRAMS BEING ASSISTED UNDER APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Section 2 of Pub. L. 95-193 provided that:

"(a) The Appalachian Regional Commission and the Department of Health, Education, and Welfare shall make a full and complete investigation and study of the child development programs being assisted under the Appalachian Regional Development Act of 1965 [this Appendix] to determine the source and nature of any problems in the phasing out of such Federal assistance to such programs and to recommend solutions to these problems, including procedures by which

sponsorship of these programs can be turned over to State or private agencies, or both.

"(b) The Appalachian Regional Commission and the Department of Health, Education, and Welfare shall make a report to the Congress of their findings and recommendations under subsection (a) not later than one year after the date of enactment of this Act [Nov. 18, 1977]."

§ 206. Water resource survey

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

TITLE III—ADMINISTRATION

§ 302. Administrative expenses and research and demonstration projects

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

TITLE 41—PUBLIC CONTRACTS

CHAPTER 1—GENERAL PROVISIONS

§ 5. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; application to Government sales and contracts to sell and to Government corporations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5a, 6a, 6a-1, 6b, 252, 260 of this title; title 2 sections 72a, 135a, 475, 604; title 5 sections 3109, 4105, 8709, 8714a, 8902; title 7 sections 87e-1, 427i, 1624; title 8 sections 1252, 1355; title 10 section 2314; title 12 sections 1141b, 1701z-2, 1703, 1710, 1713, 1739, 1747g, 1747k, 1749a, 1750c, 1788, 1827; title 15 sections 634, 2218, 2507, 2609, 2626; title 16 sections 17b, 17i, 343b, 450jj-1, 504, 580c, 590z-3, 594-5, 757, 916*l*, 961, 1052; title 20 sections 1034, 1070d-1, 2012, 2106; title 21 section 872; title 22 sections 272a, 280b, 280i, 280k, 287e, 287r, 289c, 290b, 295b, 1047, 2103, 2179, 2509; title 23 sections 140, 307; title 24 sections 322, 324; title 28 sections 624, 753; title 29 section 671; title 30 section 556; title 31 section 866; title 33 sections 1123, 1254; title 38 sections 766, 806, 1820, 4101, 4202, 5012, 5070; title 40 sections 71a, 276a-7, 484, 609, 758; title 42 sections 242k, 242m, 247d, 263d, 283, 285, 286d, 287b, 292f, 295f-4, 295g-9, 295g-10, 296k, 300c-11, 300c-21, 300c-22, 300d-5, 300e-2, 300e-3, 300u, 1395u, 1532, 1543, 1563, 1592d, 1592h, 1870, 2051, 2061, 2063, 2075, 2096, 2210, 2293, 2295, 2310, 2349, 2362, 3211, 3535, 4081, 4082, 4101, 4372, 4585, 6009, 6616, 7403, 7404; title 45 sections 361, 712, 715, 719; title 46 section 1126; title 48 sections 1409b, 1409f, 1409j; title 49 sections 20, 26b, 65, 1159, 1638, 1643, 1903; title 50 sections 98b, 198; title 50 App. section 1918.

§ 15. Transfers of contracts; assignments of claims; set-off against assignee

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 35. Contracts for materials, etc., exceeding $10,000; representations and stipulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36, 37, 38, 39, 40, 41, 42, 43, 43a, 44, 45, 258 of this title; title 10 sections 2304, 7299; title 15 section 637; title 39 section 410.

TITLE 42—THE PUBLIC HEALTH AND WELFARE

Chap.		Sec.
83.	Energy Extension Service [New]	7001
84.	Department of Energy [New]	7101
85.	Air Pollution and Control [New]	7401
86.	Earthquake Hazards Reduction [New]	7701

CHAPTER 6A—PUBLIC HEALTH SERVICE

SUBCHAPTER V—HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL

PART C—STUDENT ASSISTANCE

SUBPART IV—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

Sec.
294y-1. Indian Health Scholarships [New].
(a) Authorization of appropriations.
(b) Recipients; active duty service obligation.
(c) Indians.

SUBCHAPTER XII—SAFETY OF PUBLIC WATER SYSTEMS

PART E—GENERAL PROVISIONS

300j-3a. Grants to public sector agencies [New].
(a) Assistance for development and demonstration projects.
(b) Limitations.
(c) Authorization of appropriations.
300j-10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation [New].

SUBCHAPTER I—ADMINISTRATION

§ 201. Definitions

When used in this chapter—

[*See main edition for text of* (*a*) *to* (*e*)]

(f) Except as provided in sections 246(g)(4)(B), 247c(c)(1), 254d(h)(3), 263(5), 264(d), 292a(9), 300a(c), 300d(2), 300f(13), 300n(1), and 300s-3(1) of this title, the term "State" includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

[*See main edition for text of* (*g*) *to* (*q*)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 107, 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-83 expanded definition of "State" to include American Samoa and the Trust Territory of the Pacific Islands.

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95-190, § 1, Nov. 16, 1977, 91 Stat. 1393, provided that: "This Act [enacting sections 300j-10 and 7625a of this title, amending sections 300f, 300g-1, 300g-3, 300g-5, 300h, 300h-1, 300j to 300j-2, 300j-4, 300j-6, 300j-8, 7410, 7411, 7413, 7414, 7416, 7419, 7420, 7426, 7472 to 7475, 7478, 7479, 7502, 7503, 7506, 7521, 7522, 7525, 7541, 7545, 7549, 7602, 7604, 7607, 7623, and 7626 of this title, enacting provisions set out as notes under section 300f of this title, and section 5108 of Title 5, Government Organization and Employee, and amending provisions set out as notes under sections 300f, 7401, and 7502 of this title] may be cited as the 'Safe Drinking Water Amendments of 1977'."

Section 101 of Pub. L. 95-83 provided that: "This title [amending sections 201, 242m, 300e-8, 300k-3, 300*l* to 300*l*-5, 300m, 300m-2, 300m-4, 300m-5, 300n-3, 300n-5, 300o-1 to 300o-3, 300p, 300p-3, 300q, 300q-2, 300r, 300s-3, 300t, and 1396b of this title, and enacting provisions set out as a note under section 1396b of this title] may be cited as the 'Health Planning and Health Services Research and Statistics Extension Act of 1977'."

Section 201 of Pub. L. 95-83 provided that: "This title [amending sections 280b, 286b, 286c, 286d, 286f, 286g, 287c, 287d, 287f, 287h, 287i, and 289*l*-1 of this title] may be cited as the 'Biomedical Research Extension Act of 1977'."

Section 301 of Pub. L. 95-83 provided that: "This title [enacting section 294y-1 of this title, amending sections 210, 246, 247d, 254c, 292g, 292h, 293a, 294d, 294e, 294h, 294i, 294j, 294n, 294r, 294s, 294w, 294z, 295f-1, 295g-1, 295g-9, 295h-5, 295h-5c, 296e, 296m, 297, 300, 300a-1, 300a-2, 300a-3, 300c-11, 300c-21, 300c-22, 701, 2689a to 2689e, 2689h, 2689p, 2689q, 4572, 4573, and 4577 of this title, sections 1101 and 1182 of Title 8, Aliens and Nationality, sections 1112 and 1176 of Title 21, Food and Drugs, and section 1614 of Title 25, Indians, enacting provisions set out as notes under sections 242b, 242*l*, 294d, 294i, 294n, 294r, 294t, 294y-1, 294z, 295f-1, 295g-1, 295h-5, and 296m of this title and sections 1101 and 1182 of Title 8, and amending provisions set out as notes under sections 289k-2, 1395x, and 1396b of this title] may be cited as the 'Health Services Extension Act of 1977'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 3651, 4209.

§ 207. Grades, ranks, and titles of commissioned corps

[*See main edition for text of* (*a*)]

(b) Titles of medical officers

The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon, and (6) junior assistant surgeon. The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of

the officers of the Reserve Corps shall have the suffix "Reserve."

[*See main edition for text of* (c) *and* (d)]

(As amended Dec. 19, 1977, Pub. L. 95-215, § 8(b), 91 Stat. 1507.)

AMENDMENTS

1977—Subsec. (b)(6). Pub. L. 95-215 directed that "junior assistant" be substituted for "senior assistant", requiring no change in the text of subsec. (b)(6) as presently carried.

§ 210. Pay and allowances

[*See main edition for text of* (a) *to* (f)]

(g) Positions in professional, scientific and executive service; compensation; appointment

The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty-five positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health and not less than five shall be for the National Institute on Alcohol Abuse and Alcoholism for individuals engaged in research on alcohol abuse and alcoholism, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional and administrative personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule nor more than (1) the highest rate of grade 18 of the General Schedule, or (2) in the case of two such positions, the rate specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313) and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 312, 91 Stat. 398.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-83 increased the limitation on establishment of positions to one hundred and fifty-five from one hundred and fifty and required not less than five for the National Institute on Alcohol Abuse and Alcoholism for individuals engaged in research on alcohol abuse and alcoholism.

§ 218. National Advisory Councils

EFFECTIVE DATE OF 1974 AMENDMENT

Section 211(b) of Pub. L. 93-348, as amended by Pub. L. 94-278, title III, § 301(b), Apr. 22, 1976, 90 Stat. 407; Pub. L. 94-573, § 18(b), Oct. 21, 1976, 90 Stat. 2720; Pub. L. 95-203, § 5(b), Nov. 23, 1977, 91 Stat. 1454, provided that: "The amendment made by subsection (a) [enacting subsec. (f) of this section] shall take effect November 1, 1978."

SUBCHAPTER II—GENERAL POWERS AND DUTIES

PART A—RESEARCH AND INVESTIGATIONS

§ 241. Research and investigations generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 242a, 263, 282, 283, 287a, 287h, 288a, 288b, 289a, 289c, 289d, 289g, 289k, 289k-1, 289k-4, 300d-5, 4551, 7610 of this title; title 21 section 1191.

§ 242b. General authority respecting health statistics and health services research, evaluations, and demonstrations

MODEL STANDARDS WITH RESPECT TO PREVENTIVE HEALTH SERVICES IN COMMUNITIES

Pub. L. 95-83, title III, § 314, Aug. 1, 1977, 91 Stat. 398, provided that: "The Secretary of Health, Education, and Welfare, in cooperation with appropriate professional entities and individuals, shall within two years of the date of the enactment of this section [Aug. 1, 1977], (1) establish model standards with respect to preventive health services in communities, and (2) report such standards to the Congress. Such standards shall be developed to identify populations in need of preventive or protective health services and to maintain community oriented preventive health programs."

§ 242k. National Center for Health Statistics

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242*l*, 242m, 300*l*-2, 300m-1, 1320a of this title.

§ 242*l*. International cooperation

INTERNATIONAL HEALTH STUDY

Pub. L. 95-83, title III, § 315, Aug. 1, 1977, 91 Stat. 398, provided that:

"(a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as 'Secretary') shall arrange for the conduct of a study or studies to determine opportunities, if any, for broadened Federal program activities in areas of international health. Such study or studies shall consider biomedical and behavioral research, health services research, health professions education, immunization and public health activities, and other areas that might improve our and other nations' capacities to prevent, diagnose, control, or cure disease, and to organize and deliver effective and efficient health services.

"(2) An interim report on such study or studies shall be completed no later than October 1, 1977. A final report thereon shall be completed no later than January 1, 1978. Both reports shall be submitted to the Secretary, the Committee on Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(b)(1) The Secretary shall request the National Academy of Sciences (hereinafter in this section referred to as 'Academy') to conduct such study or studies under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study or studies will be paid by the Secretary. If the Academy is willing to do so, the Secretary shall enter into such an arrangement with the Academy.

"(2) If the Academy is unwilling to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement

with other appropriate nonprofit private groups or associations to conduct such study or studies and prepare and submit the reports thereon as provided in subsection (a)(2)."

§ 242m. General provisions respecting sections 242b, 242c, 242k, and 242l of this title concerning general authority of Secretary, National Center and other centers for Health Services Research, National Center for Health Statistics, and International cooperation

[*See main edition for text of* (a) *to* (h)]

(i) Authorization of appropriations

(1) For health service research, evaluation, and demonstration activities undertaken or supported under section 242b or 242c of this title, there are authorized to be appropriated $65,200,000 for the fiscal year ending June 30, 1975, $80,000,000 for the fiscal year ending June 30, 1976, and $28,600,000 for the fiscal year ending September 30, 1978. Of the funds appropriated under this paragraph for any fiscal year, not less than 25 per centum of such funds shall be made available only for health services research, evaluation, and demonstration activities directly undertaken by the Secretary under such section.

(2) For health statistical activities undertaken or supported under section 242b or 242k of this title, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $33,600,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 104, 91 Stat. 384.)

AMENDMENTS

1977—Subsec. (i)(1). Pub. L. 95-83, § 104(a), authorized appropriation of $28,600,000 for fiscal year ending Sept. 30, 1978.

Subsec. (i)(2). Pub. L. 95-83, § 104(b), authorized appropriation of $33,600,000 for fiscal year ending Sept. 30, 1978.

PART B—FEDERAL-STATE COOPERATION

§ 243. General grant of authority for cooperation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7610 of this title.

§ 246. Grants and services to States

[*See main edition for text of* (a) *to* (c)]

(d) Grants for comprehensive public health services; form, manner, contents and required assurances of application; annual review of activities undertaken in application; prerequisites for approval of application; allotment of funds; maximum amount of grants; availability of allotments; authorization of appropriations

[*See main edition for text of* (1) *to* (6)]

(7)(A) For payments under grants under paragraph (1) there are authorized to be appropriated $100,000,000 for fiscal year 1976, $110,000,000 for the fiscal year ending September 30, 1977, and $106,750,000 for the fiscal year ending September 30, 1978.

(B) For payments under grants under paragraph (1) for establishing and maintaining programs, described in applications under paragraph (2), for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension there are authorized to be appropriated $15,000,000 for fiscal year 1976, $15,000,000 for the fiscal year ending September 30, 1977, and $12,680,000 for the fiscal year ending September 30, 1978.

[*See main edition for text of* (e) *to* (g)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 302, 91 Stat. 387.)

AMENDMENTS

1977—Subsec. (d)(7)(A). Pub. L. 95-83, § 302(a), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $106,750,000 for fiscal year ending Sept. 30, 1978.

Subsec. (d)(7)(B). Pub. L. 95-83, § 302(b), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $12,680,000 for fiscal year ending Sept. 30, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 235, 236, 243, 247b, 291e, 293a, 300*l*, 300*l*-3, 300*l*-4, 1320a-1, 2689r, 2689t, 4728, 7610 of this title; title 21 sections 1173, 1176; title 48 section 1666.

§ 247d. Migrant health centers

[*See main edition for text of* (a) *to* (g)]

(h) Authorization of appropriations; availability of funds for grants and contracts

(1) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (c)(1) of this section $4,000,000 for fiscal year 1976, $4,000,000 for the fiscal year ending September 30, 1977, and $2,950,000 for the fiscal year ending September 30, 1978. Of the funds appropriated under this paragraph for fiscal year 1976, not more than 30 per centum of such funds may be made available for grants and contracts under subsection (c)(1)(B) of this section, and of the funds appropriated under this paragraph for each of the next two fiscal years, not more than 25 per centum of such funds may be made available for grants and contracts under such subsection.

(2) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (d)(1) of this section (other than for payments under such grants and contracts for the provision of inpatient and outpatient hospital services) and for payments pursuant to contracts under subsection (e) of this section, $30,000,000 for fiscal year 1976, $35,000,000 for the fiscal year ending September 30, 1977, and $32,080,000 for the fiscal year ending September 30, 1978. Of the funds appropriated under the first sentence for fiscal year 1976, there shall be made available for grants and contracts under subsection (d)(1)(C) of this section an amount not exceeding the greater of

30 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d)(1)(C) of this section. Of the funds appropriated under the first sentence for fiscal years ending September 30, 1977, and September 30, 1978, there shall be made available for grants and contracts under subsection (d)(1)(C) of this section an amount not exceeding the greater of 25 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d)(1)(C) of this section which received grants under this section for the fiscal year ending June 30, 1975. Of the funds appropriated under this paragraph for any fiscal year, not more than 10 per centum of such funds may be made available for contracts under subsection (e) of this section.

(3) There are authorized to be appropriated for payments under grants and contracts under subsection (d)(1) of this section for the provision of inpatient and outpatient hospital services $5,000,000 for fiscal year 1976, $5,000,000 for the fiscal year ending September 30, 1977, and $4,230,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 303, 91 Stat. 388.)

AMENDMENTS

1977—Subsec. (h)(1). Pub. L. 95-83, § 303(a), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, authorized appropriation of $2,950,000 for fiscal year ending Sept. 30, 1978, and substituted in second sentence "each of the next two fiscal years" for "the next fiscal year".

Subsec. (h)(2). Pub. L. 95-83, § 303(b), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, authorized appropriation of $32,080,000 for fiscal year ending Sept. 30, 1978, and substituted in third sentence "fiscal years ending September 30, 1977, and September 30, 1978" for "fiscal year 1977".

Subsec. (h)(3). Pub. L. 95-83, § 303(c), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $4,230,000 for fiscal year ending Sept. 30, 1978.

PART C—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

SUBPART I—GENERAL PROVISIONS

§ 250a. Transfer of appropriations

REPEATED

Pub. L. 95-86, title II, § 201, Aug. 2, 1977, 91 Stat. 427.

§ 254c. Community health centers

[*See main edition for text of* (a)]

(b) Additional definitions

For purposes of this section:

[*See main edition for text of* (1) *and* (2)]

(3) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. In designating urban and rural areas for purposes of this paragraph, the Secretary shall take into account unusual local conditions which are a barrier to access to or the availability of personal health services.

[*See main edition for text of* (c) *and* (d)]

(e) Approval of application as prerequisite for grant; form and manner of submission and contents of application; determination of entity as center as prerequisite for approval of application

(1) No grant may be made under subsection (c) or (d) of this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

[*See main edition for text of* (A) *to* (C)]

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 5 U.S.C. Appendix) and section 276c of title 40.

[*See main edition for text of* (2); (f)]

(g) Authorization of appropriations

(1) There are authorized to be appropriated for payments pursuant to grants under subsection (c) of this section $5,000,000 for fiscal year 1976, $5,000,000 for the fiscal year ending September 30, 1977, and $5,880,000 for the fiscal year ending September 30, 1978.

(2) There are authorized to be appropriated for payments pursuant to grants under subsection (d) of this section $215,000,000 for fiscal year 1976, $235,000,000 for the fiscal year ending September 30, 1977, and $256,840,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 304, 91 Stat. 388.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-83, § 304(b)(1), required the Secretary to take into account unusual local conditions which are a barrier to access to or the availability of personal health services.

Subsec. (e)(1). Pub. L. 95-83, § 304(b)(2), corrected introductory text, substituting subsection "(c)" for "(e)".

Subsec. (g). Pub. L. 95-83, § 304(a), substituted in pars. (1) and (2) provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation for fiscal year ending Sept. 30, 1978, of $5,880,000 in par. (1) and $256,840,000 in par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396b of this title; title 7 section 3178.

SUBPART II—NATIONAL HEALTH SERVICE CORPS PROGRAM

§ 254e. Health manpower shortage areas

[*See main edition for text of (a) and (b)*]

(c) Designation of area; considerations by Secretary; recommendations of State Governor, State health planning and development agencies, and health system agencies

In determining whether to make a designation, the Secretary shall take into consideration the following:

[*See main edition for text of (1) and (2)*]

(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII [42 U.S.C. 1395 et seq.] or XIX [42 U.S.C. 1396 et seq.] of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.

[*See main edition for text of (d) to (h)*]

(As amended Oct. 25, 1977, Pub. L. 95-142, § 7(d), 91 Stat. 1193.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1977—Subsec. (c)(3). Pub. L. 95-142 added subsec. (c)(3).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7(e)(1) of Pub. L. 95-142 provided that: "The amendment made by subsection (d) [adding subsec. (c)(3) of this section] shall apply with respect to determinations and designations made on and after the date of the enactment of this Act [Oct. 25, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254f, 294h, 294n, 294t, 294u, 294x, 296m of this title.

PART F—LICENSING OF BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES AND CONTROL OF RADIATION

SUBPART 3—ELECTRONIC PRODUCT RADIATION CONTROL

§ 263d. Program of control

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

PART J—ASSISTANCE TO MEDICAL LIBRARIES

§ 280b. Congressional findings and declaration of policy

[*See main edition for text of (a) and (b)*]

(c) Authorization of appropriations

For the purpose of grants and contracts under sections 280b-3, 280b-4, 280b-5, 280b-7, and 280b-8 of this title, there are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and $14,600,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 202, 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 authorized appropriation of $14,600,000 for fiscal year ending Sept. 30, 1978.

SUBCHAPTER III—NATIONAL RESEARCH INSTITUTES

PART A—NATIONAL CANCER INSTITUTE

§ 286b. National Cancer Research and Demonstration Centers

[*See main edition for text of (a)*]

(b) Cooperative agreement with nonprofit agencies or institutions for Federal payments of basic operating support; uses of Federal funds; support limitation; periods and extensions of support

The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a) of this section) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 285 of this title), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professions personnel), and (4) demonstration purposes. The aggregate of payments (other than payments for construction) made to any center in support of such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the costs of a center for which payments may be made under such an agreement, the aggregate of payments

in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000. As used in this section, the term "construction" does not include the acquisition of land, and the term "training" does not include research training for which fellowship support may be provided under section 289l-1 of this title. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 203(b)(1), 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-83 substituted provisions prescribing that the aggregate of payments (other than payments for construction) made to any center in support of the cooperative agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year excepted to include an increase reflected in the Consumer Price Index in the costs of the center and defining the terms "construction" and "training" for prior provision restricting support (other than support for construction) to a sum not to exceed $5,000,000 per year per center.

§ 286c. Cancer Control Programs

[*See main edition for text of* (a)]

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, $88,500,000 for the fiscal year ending September 30, 1977, and $84,560,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 203(a)(1), 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-83 substituted reference to appropriations authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year ending June 30, 1977, and authorized appropriation of $84,560,000 for fiscal year ending Sept. 30, 1978.

§ 286d. Authority of Director of National Cancer Institute

(a) The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this chapter, is authorized—

(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

[*See main edition for text of* (2) *to* (9); (b)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 203(b)(3), 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-83 substituted "one hundred and fifty-one" for "one hundred".

§ 286f. National Cancer Advisory Board

(a) Membership; representation of interests; qualifications of appointees

There is established in the National Cancer Institute a National Cancer Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the Office of Science and Technology Policy, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

(2) Eighteen members appointed by the President.

Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives from the general public. The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the National Cancer Institute.

[*See main edition for text of* (b) *to* (i)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 203(b)(2), 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-83 substituted "Office of Science and Technology Policy" for "Office of Science and Technology" and "(or their designees)" for "(or his designee)".

§ 286g. Authorization of appropriations

For the purpose of carrying out this part (other than section 286c of this title), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972, $500,000,000 for the fiscal year ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal

year ending June 3, 1976; $985,000,000 for the fiscal year ending September 30, 1977; and $923,590,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 203(a)(2), 91 Stat. 386.)

AMENDMENTS

1977—Pub. L. 95-83 substituted reference to appropriations authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year ending June 30, 1977, and authorized appropriation of $923,590,000 for fiscal year ending Sept. 30, 1978.

PART B—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

§ 287c. Heart, blood vessel, lung, and blood disease prevention and control programs

[*See main edition for text of* (a)]

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, $45,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year 1976, $30,000,000 for the fiscal year ending September 30, 1977, and $30,000,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 204(a)(1), 91 Stat. 386.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $30,000,000 for fiscal year ending Sept. 30, 1978.

§ 287d. National research and demonstration centers for heart, blood vessel, lung, and blood diseases and blood resources

(a) Research, training, demonstration, and disease prevention activities

(1) The Director of the Institute may provide for the development of—

(A) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart and blood vessel diseases,

[*See main edition for text of* (B)]

(C) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood diseases and research into blood, in the use of blood products and in the management of blood resources.

[*See main edition for text of* (2) *and* (3)]

(b) Payments under cooperative agreements with public or nonprofit agencies; use of funds; limitations; "construction" and "training" defined

The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a) of this section) for basic or clinical research into, training in, and demonstration of the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

(1) construction, notwithstanding section 285 of this title,

(2) staffing and other basic operating costs, including such patient care costs as are required for research,

(3) training, including training for allied health professions personnel, and

(4) demonstration purposes.

The aggregate of payments (other than payments for construction) made to any center under such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the costs of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000. Support of a center under this subsection may be for a period of not to exceed five years and may be tended by the Director of the Institute for additional periods of not more than five years each, after review of the operations of such center by an appropriate scientific review group established by the Director. As used in this section, the term "construction" does not include the acquisition of land; and the term "training" does not include research training for which fellowship support may be provided under section 289*l*-1 of this title.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 204(b)(1), (2), 91 Stat. 387.)

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-83, § 204(b)(1)(A), substituted "and blood vessel diseases," for "diseases and for research in the use of blood and blood products and in the management of blood resources;".

Subsec. (a)(1)(C). Pub. L. 95-83, § 204(b)(1)(B), substituted "diseases and research into blood, in the use

of blood products and" for ", blood vessel diseases, research in the use of blood products, and research".

Subsec. (b). Pub. L. 95-83, § 204(b)(2), substituted "in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the costs of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000" for "in any year, except that the aggregate of such payments in any year may exceed such amount to the extent that the excess amount is attributable to increases in such year in appropriate costs as reflected in the Consumer Price Index published by the Bureau of Labor Statistics".

§ 287f. National Heart, Lung, and Blood Advisory Council

(a) Establishment; membership; ex officio members; selection of members

There is established in the Institute a National Heart, Lung, and Blood Advisory Council to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, and the chief medical officer of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, shall be ex officio members of the Council.

(2) Eighteen members appointed by the Secretary.

Eleven of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to diseases of the heart, blood vessels, lungs, and blood; two of the appointed members shall be selected from persons enrolled in residency programs providing training in heart, blood vessel, lung, or blood diseases; and five of the appointed members shall be selected from members of the general public who are leaders in the fields of fundamental or medical sciences or in public affairs.

[See main edition for text of (b) to (e)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 204(b)(3), 91 Stat. 387.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-83 substituted "Office of Science and Technology Policy" for "National Science Foundation".

§ 287h. Administration

(a) Authority of the Secretary; grants-in-aid

In carrying out the provisions of section 287a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Secretary, and except as provided in subsection (c) of this section, grants-in-aid for heart, blood vessel, lung, and blood disease research and training projects and projects with respect to the use of blood and blood products and the management of blood resources, shall be made only after review and recommendation of the Council.

[See main edition for text of (b) and (c)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 204(b)(4), 91 Stat. 387.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 struck out "made pursuant to section 287g of this title" following "Council".

§ 287i. Authorization of appropriations

For the purpose of carrying out this part (other than section 287c of this title), there is authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1973, $425,000,000 for the fiscal year ending June 30, 1974, $475,000,000 for the fiscal year ending June 30, 1975, $339,000,000 for fiscal year 1976, $373,000,000 for the fiscal year ending September 30, 1977, and $426,320,000 for the fiscal year ending September 30, 1978. Of the sums appropriated under this section for any fiscal year, not less than 15 per centum of such sums shall be reserved for programs under this part respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs under this part for programs respecting blood diseases and blood resources.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 204(a)(2), 91 Stat. 387.)

AMENDMENTS

1977—Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $426,320,000 for fiscal year ending Sept. 30, 1978.

PART H—NATIONAL INSTITUTE ON AGING

§ 289k-2. Establishment

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Pub. L. 94-63, title VI, § 603, July 29, 1975, 89 Stat. 347, as amended by Pub. L. 94-460, title III, § 303, Oct. 8, 1976, 90 Stat. 1960; Pub. L. 95-83, title III, § 313, Aug. 1, 1977, 91 Stat. 398, provided for the appointment of a Committee on Mental Health and Illness of the Elderly to make a study of and recommendations respecting the future needs for mental health facilities, etc., care of elderly, and proposals for implementing the recommendations of the 1971 White House Conference on Aging. A report on the findings of the Committee was to be submitted to Congress not later than Aug. 30, 1977, thirty days after submission of which the Committee ceased to exist.

PART I—GENERAL PROVISIONS

§ 289l-1. National Research Service Awards and grants for research or research training

[See main edition for text of (a) to (c)]

(d) Authorization of appropriations; minimum sums for subsection (a)(1)(A) payments

There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such Awards $207,947,000 for the fiscal year ending June 30,

1975, $165,000,000 for fiscal year 1976, $185,000,000 for the fiscal year ending September 30, 1977, and $161,390,000 for the fiscal year ending September 30, 1978. Of the sums appropriated under this subsection, not less than 25 per centum shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a)(1)(A) of this section.

(As amended Aug. 1, 1977, Pub. L. 95-83, title II, § 205, 91 Stat. 387.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $161,390,000 for fiscal year ending Sept. 30, 1978.

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Sections 201 to 205 of Pub. L. 93-348, as amended by Pub. L. 94-573, § 18(a), Oct. 21, 1976, 90 Stat. 2719, Pub. L. 95-203, § 5(a), Nov. 23, 1977, 91 Stat. 1454, provided for the establishment of a National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research to conduct an investigation and study to identify the basic ethical principles which should underline biomedical and behavioral research involving human subjects and to develop guidelines and make recommendations to the Secretary concerning administration of such guidelines. The Commission was also to make recommendations to the Congress respecting the functions and authority of the National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research, and to make periodic reports to the President, Congress, and the Secretary concerning such duties. The Commission's duties were to be completed not later than the expiration of the 42 month period beginning on the first day of the first month that follows the date on which all the members of the Commission have taken office, with a final report to be submitted to the President, Congress and the Secretary not later than 90 days after the expiration of such 42 month period, the Commission ceasing to exist thirty days following the submission of such final report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286b, 287d, 289c-1, 294u of this title.

SUBCHAPTER V—HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 300d-5, 300*l*-2 of this title; title 12 section 1715z-7; title 38 section 5070.

PART A—GENERAL PROVISIONS

§ 292g. Delegation of authority

The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority—

(1) to review and prepare comments on any application for a grant or contract under any such program (including any application for a continuation of such a grant or contract or for modification of such a contract) for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

(2) to make such a grant, enter into such a contract, continue such a grant or contract, or modify such a contract,

shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(r), 91 Stat. 395.)

AMENDMENTS

1977—Pub. L. 95-83, in item (1), struck out the comma following "review" and "the merit of," preceding "any application" and inserted "(including any application for a continuation of such a grant or contract or for modification of such a contract)" following "program"; and, in item (2), substituted ", enter into such a contract, continue such a grant or contract, or modify such a contract" for "or enter into such a contract".

§ 292h. Health professions data

(a) Uniform reporting system; scope of information

The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which program shall initially include data respecting all physicians and dentists in the States. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socio-economic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

[*See main edition for text of (b) to (d)*]

(e) Personal data; consent for transfer; disclosure; program entity

(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

[*See main edition for text of (A) and (B)*]

(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

[*See main edition for text of (D), (2) to (4); (f) and (g)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(a), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 307(a)(1), in the first sentence, inserted "program" preceding "shall initially" and substituted "States" for "United States and its territories and possessions".

Subsec. (e)(1)(C). Pub. L. 95-83, § 307(a)(2), inserted "use" following "personal data which".

PART B—GRANTS AND LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL

§ 293a. Applications

[*See main edition for text of (a) to (e)*]

(f) Regional health professions programs; definition

(1) An application for a grant under subsection (a) of section 293 of this title for the fiscal year ending September 30, 1977, for an affiliated clinical facility for the establishment or expansion of a regional health professions program may be filed by any public or other nonprofit agency if the application is approved by the school of veterinary medicine, optometry, podiatry, or pharmacy with which the facility is affiliated. Only that portion of the project to construct such a facility which the Secretary determines to be reasonably attributable to the need of the regional health professions program for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 293b of this title.

(2) In considering applications for grants under subsection (a) of section 293 of this title for the fiscal year ending September 30, 1977, the Secretary shall give special consideration to applications for facilities for the establishment or expansion of regional health professions programs.

[*See main edition for text of (3); (g)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(b), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-83 substituted in pars. (1) and (2) "subsection (a) of section 293 of this title" for "subsection (a) of this section".

PART C—STUDENT ASSISTANCE

SUBPART I—FEDERAL PROGRAM OF INSURED LOANS TO GRADUATE STUDENTS IN HEALTH PROFESSIONS SCHOOLS

§ 294. Statement of purpose; authorization of appropriations

(a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in (and certain former students of) eligible institutions.

[*See main edition for text of (b)*]

(As amended Dec. 19, 1977, Pub. L. 95-215, § 4(e)(1), 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-215 substituted "students in (and certain former students of) eligible institutions" for "students in eligible institutions".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294a. Federal loan insurance program

(a) Scope and duration

The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 294j of this title) to borrowers covered by Federal loan insurance under this subpart shall not exceed $500,000,000 for the fiscal year ending September 30, 1978; $510,000,000 for the fiscal year ending September 30, 1979; and $520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 294d(a)(1)(B) of this title to pay interest on such prior loans; but no insurance may be granted for any loan made or installment paid after September 30, 1982.

[*See main edition for text of (b)*]

(c) Student Loan Marketing Association; right to deal in loans

The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.], is authorized to make advances on the security of, purchase, service, sell, or otherwise deal in, loans which are insured by the Secretary under this subpart.

(As amended Dec. 19, 1977, Pub. L. 95-215, § 4(e)(2)-(4), 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-215, § 4(e)(2), (3), substituted "to borrowers covered by Federal loan insurance" for "to students covered by Federal loan insurance" and added "or to obtain a loan under section 294d(a)(1)(B) of this title to pay interest on such prior loans" following "to continue or complete their educational program".

Subsec. (c). Pub. L. 95-215, § 4(e)(4), substituted "loans" for "student loans".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294b. Limitations on individually insured loans and loan insurance

(a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $50,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $37,500 in the case of a borrower who is or was a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

[*See main edition for text of* (b)]

(As amended Dec. 19, 1977, Pub. L. 95-215, § 4(e)(5), 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-215 substituted "borrower" for "student" following "insured loans made to any" and substituted "borrower who is or was a student" for "student" in two places.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1978 Amendment note under section 294d of this title.

§ 294d. Borrowers

(a) Eligibility; terms of insured student loans

A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

(1) made to—

(A) a student who—

(i)(I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

(ii) is or will be a full-time student (as defined in section 295f(c)(2) of this title) at the eligible institution;

(iii) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 294l(b)(2) of this title to receive a loan under this subpart;

(iv) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by such students;

(v) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.]; and

(vi) in the case of a pharmacy student, has satisfactorily completed three years of training; or

(B) an individual who—

(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid; and

(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and

(2) evidenced by a note or other written agreement which—

[*See main edition for text of* (A)]

(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months nor later than 12 months after the date on which the borrower ceases to be a participant in an accredited internship or residency program or (if he was not a participant in such a program) ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the date of execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 435(b) of the Higher Education Act of 1965 [20 U.S.C. 1085(b)]), (ii) not in excess of three years during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.], (v) not in excess of three years during which the borrower is a member of the National Health Service Corps, or (vi) not in excess of three years during which the borrower is in service as a

full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.], and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above;

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b) of this section) on a national, regional, or other appropriate basis, which interest shall be compounded semiannually and payable in installments over the period of the loan, except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal;

(E) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

[*See main edition for text of* (*F*)]

(b) Maximum rate of interest

No maximum rate of interest prescribed and defined by the Secretary for the purpose of paragraph (2)(D) of subsection (a) of this section may exceed 12 percent per annum on the unpaid principal balance of the loan.

[*See main edition for text of* (*c*)]

(d) Application of Federal and State laws

No provision of any law of the United States (other than subsections (a)(2)(D) and (b) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(c)(1), (2), 91 Stat. 389, 390; Dec. 19, 1977, Pub. L. 95-215, § 4(a)-(d), (e)(6), 91 Stat. 1505, 1506.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1)(A)(v), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Part B of title IV of the Higher Education Act of 1965 is classified generally to part B (§ 1071 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, See Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-215, § 4(a), redesignated existing subpars. (A) to (G) as cls. (i) to (vi) of redesignated subpar. (A), and added subpar. (B).

Subsec. (a)(2)(B). Pub. L. 95-215, § 4(e)(6), substituted "borrower" for "student".

Pub. L. 95-83, § 307(c)(1), substituted "nor later than 12 months after the date on which the student ceases to be a participant in an accredited internship or residency program or (if he was not a participant in such a program) ceases" for "after the date on which the student completes his internship or residency training, and not later than the earlier of 12 months after such date or of 3 years after the date he ceases".

Subsec. (a)(2)(C)(i). Pub. L. 95-83, § 307(c)(2), inserted "(or at an institution defined by section 435(b) of the Higher Education Act of 1965)" following "eligible institution".

Subsec. (a)(2)(D). Pub. L. 95-215, § 4(b)(1), added ", except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal" following "over the period of the loan".

Subsec. (a)(2)(E). Pub. L. 95-215, § 4(b)(2), substituted "borrower" for "student borrower".

Subsec. (b). Pub. L. 95-215, § 4(c), substituted "12 percent per annum" for "10 percent per annum".

Subsec. (d). Pub. L. 95-215, § 4(d), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENTS

Section 4(g) of Pub. L. 95-215 provided that: "The amendments made by this section [amending sections 294, 294a, 294b, 294d, 294e, 294f, 294j, 294k, and 294*l* of this title] shall take effect on October 1, 1977."

Section 307(c)(7) of Pub. L. 95-83 provided that: "The amendments made by this subsection [amending sections 294d, 294e, 294h, and 294j of this title] shall take effect October 1, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294a, 294e, 294f of this title.

§ 294e. Certificate of loan insurance

(a) Effective date of insurance

(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance is made to a student described in section

294d(a)(1) of this title. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c) of this section.

[*See main edition for text of* (3)]

(b) Application for certificate of insurance by lender; contents; comprehensive insurance coverage certificate; loans payable beyond cutoff date in certificate

(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 294a of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a borrower a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 294a of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

[*See main edition for text of* (c)]

(d) Assignment of rights by lender; limitations

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned by such lender, subject to regulation by the Secretary, only to (1) another eligible lender, or (2) the Student Loan Marketing Association.

(e) Loan consolidation by borrower; effect on loan insurance

The consolidation of the obligations of two or more federally insured loans obtained by a borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(c)(3), (4), 91 Stat. 390; Dec. 19, 1977, Pub. L. 95-215, § 4(e)(8), (9), 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-215, § 4(e)(8), substituted "borrower" for "student".

Subsec. (a)(2). Pub. L. 95-83, § 307(c)(3), substituted "is made to a student described in section 294d(a)(1) of this title" for "was made".

Subsec. (b)(1). Pub. L. 95-215, § 4(e)(9), substituted "loan" for "student loan".

Subsec. (b)(2). Pub. L. 95-215, § 4(e)(8), substituted "borrower" for "student".

Subsec. (d). Pub. L. 95-83, § 307(c)(4), substituted "assigned by such lender, subject to regulation by the Secretary, only to (1) another eligible lender, or (2) the Student Loan Marketing Association" for "assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary".

Subsec. (e). Pub. L. 95-215, § 4(e)(9), substituted "borrower" for "student borrower".

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

Amendment by Pub. L. 95-83 effective Oct. 1, 1977, see section 307(c)(7) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294f. Default by borrower under loan insurance program

(a) Substantial collection effort by lender; notice to Secretary; payment of loss

Upon default by the borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, if appropriate, commencement of a suit) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the

amount of the loss sustained by the insured upon that loan as soon as that amount has been determined.

[*See main edition for text of* (*b*)]

(c) Forbearance for benefit of borrower

Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

[*See main edition for text of* (*d*) *to* (*g*)]

(As amended Dec. 19, 1977, Pub. L. 95-215, § 4(e)(10), 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-215 substituted "borrower" for "student borrower".

Subsec. (c). Pub. L. 95-215 substituted "borrower" for "student borrower".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294h. Responsibilities of Secretary

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Contract to assume repayment obligation of borrower; service in National Health Service Corps or in health manpower shortage area in lieu of repayment; limitations; damages for breach of contract by borrower; death of borrower; waiver or suspension of payment because of impossibility, hardship, or unconscionability

[*See main edition for text of* (*1*)]

(2) Except as provided in paragraphs (3) and (4), if an individual, who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the contract, the United States shall be entitled to recover damages from such individual in an amount determined in accordance with the formula

$$A=3\phi(t-s/t)$$

in which "A" is the amount the United States is entitled to recover; "ϕ" is the sum of the amounts paid by the Secretary under the contract to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with the contract. Any amount of damages which the United States is entitled to recover under this paragraph shall be paid to the United States not later than one year after the date of the breach of such contract obligations.

[*See main edition for text of* (*3*)]

(4) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment of any or all of the damages to which the United States is entitled under paragraph (2) whenever the Secretary determines that compliance by an individual with the contract is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(c)(5), 91 Stat. 390.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-83, § 307(c)(5)(A), substituted provision respecting recovery of damages based on a prescribed formula for prior provision for recovery of an amount equal to three times the amount paid by the Secretary under the agreement to or on behalf of the borrower.

Subsec. (c)(4). Pub. L. 95-83, § 307(c)(5)(B), inserted "any obligation of service or" after "suspension of" and substituted "the contract" for "the agreement which was breached".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-83 effective Oct. 1, 1977, see section 307(c)(7) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294i. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Administrator of the National Credit Union Administration, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(d), 91 Stat. 390.)

AMENDMENTS

1977—Pub. L. 95-83 substituted "Administrator of the National Credit Union Administration" for "Director of the Bureau of Federal Credit Unions".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(d) of Pub. L. 95-83 provided in part that the amendment by Pub. L. 95-83 is effective Oct. 1, 1977.

§ 294j. Definitions

As used in this subpart:

(1) The term "eligible institution" means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, or public health within the United States that (A) received a grant, or the Secretary determines met the requirements for receipt of a grant, under section 295f of this title for the preceding fiscal year, or (B) was not eligible to receive such a grant for such fiscal year solely because it did

not meet the applicable requirements of section 295f-1(b)(3) of this title.

[*See main edition for text of* (2) *to* (4)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(c)(6), 91 Stat. 390; Dec. 19, 1977, Pub. L. 95-215, § 4(f), 91 Stat. 1506.)

AMENDMENTS

1977—Par. (1). Pub. L. 95-215 substituted "or public health" for "and public health" in the existing provisions, inserted "(A)" following "that", and added ", or (B) was not eligible to receive such a grant for such fiscal year solely because it did not meet the applicable requirements of section 295f-1(b)(3) of this title".

Pub. L. 95-83 substituted "that received a grant, or the Secretary determines met the requirements for receipt of a grant, under section 295f of this title for the preceding year" for "that is receiving, or the Secretary determines is eligible to receive, a grant under section 295f of this title for such fiscal year."

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

Amendment by Pub. L. 95-83 effective Oct. 1, 1977, see section 307(c)(7) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294k. Loans of deceased or disabled borrowers; repayment by Secretary from loan insurance fund

If a borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund established under section 294g of this title.

(As amended Dec. 19, 1977, Pub. L. 95-215, § 4(e)(12), 91 Stat. 1506.)

AMENDMENTS

1977—Pub. L. 95-215 substituted "borrower" for "student borrower".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

§ 294*l*. Eligibility of institutions; authority to prescribe regulations

(a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained from a borrower who has received a loan insured under this subpart;

[*See main edition for text of* (2) *and* (3); (b)]

(As amended Dec. 19, 1977, Pub. L. 95-215, § 4(e)(13), 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-215 substituted "borrower" for "student".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-215 effective Oct. 1, 1977, see section 4(g) of Pub. L. 95-215, set out as an Effective Date of 1977 Amendment note under section 294d of this title.

SUBPART II—STUDENT LOANS

§ 294n. Loan provisions

[*See main edition for text of* (a) *to* (e)]

(f) Payment of principal and interest for practice in physician etc. shortage areas; limitation; liability for reimbursement; election of loan cancellation under amended or original provisions

(1) In the case of any individual—

[*See main edition for text of* (A)]

(B) who (i) obtained one or more loans from a loan fund established under this subpart, or (ii) obtained, under a written loan agreement entered into before October 12, 1976, any other educational loan for his costs at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry; and

[*See main edition for text of* (C)]

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of his described in subparagraph (B) of this paragraph which is outstanding on the date he begins the practice specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

[*See main edition for text of* (A) *to* (C)]

No payment may be made under this paragraph with respect to a loan described in paragraph (1)(B)(ii) unless the person on whose behalf the payment is to be made has submitted to the Secretary a certified copy of the agreement under which such loan was made. In any year the amount of payments that may be made under this paragraph with respect to such a loan may not exceed $10,000 and the total amount of payments that may be made under this paragraph with respect to such a loan may not exceed $50,000.

[*See main edition for text of* (3) *to* (5); (g) *to* (l)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(e)(1), (2), 91 Stat. 390.)

AMENDMENTS

1977—Subsec. (f)(1)(B). Pub. L. 95-83, § 307(e)(1), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (f)(2). Pub. L. 95-83, § 307(e)(2), required submittal of a certified copy of the written loan agreement to the Secretary and prohibited payments with respect to such a loan in excess of $10,000 in any year and in excess of $50,000 as the total amount.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(e)(3) of Pub. L. 95-83 provided that: "The amendments made by this subsection [amending this section] shall be effective as of October 12, 1976."

SUBPART III—TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH AND OTHER GRADUATE PROGRAMS

§ 294r. Traineeships for students in schools of public health

(a) Grants to accredited schools and other public or nonprofit institutions

The Secretary may make grants to—

(1) accredited schools of public health, and

(2) other public or nonprofit institutions which provide graduate or specialized training in public health and which are not eligible to receive a grant under section 294s of this title,

to provide traineeships.

(b) Application; stipends, allowances; use of funds

[*See main edition for text of (1)*]

(2) Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least the percent specified in paragraph (4) of the funds received under this section shall go to individuals who—

(A)(i) have previously received a postbaccalaureate degree, or

(ii) have three years of work experience in health services; and

(B) are pursuing a course of study in—

(i) biostatistics or epidemiology,

(ii) health administration, health planning, or health policy analysis and planning,

(iii) environmental or occupational health,

(iv) dietetics or nutrition, or

(v) preventive medicine or dentistry.

[*See main edition for text of (4)*]

(c) Authorization of appropriation

For payments under grants under subsection (a) of this section, there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978; $9,000,000 for the fiscal year ending September 30, 1979; and $10,000,000 for the fiscal year ending September 30, 1980.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(f), 91 Stat. 391; Dec. 19, 1977, Pub. L. 95-215, § 3, 91 Stat. 1504.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-215, § 3(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 95-83 authorized payment of tuition and fees for trainees.

Subsec. (b)(3)(B)(v). Pub. L. 95-215, § 3(b), added subsec. (b)(3)(B)(v).

Subsec. (c). Pub. L. 95-215, § 3(c), substituted "$9,000,000" for "$8,000,000" in the appropriation authorization for the fiscal year ending Sept. 30, 1979, and "$10,000,000" for "$9,000,000" in the appropriation authorization for the fiscal year ending Sept. 30, 1980.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(f) of Pub. L. 95-83 provided in part that the amendment by Pub. L. 95-83 is effective Oct. 1, 1977.

§ 294s. Traineeships for students in other graduate programs

[*See main edition for text of (a)*]

(b) Application; stipends and allowances; use of funds

[*See main edition for text of (1)*]

(2) Traineeships awarded under grants made under subsection (a) of this section shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

[*See main edition for text of (3); (c)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(f), 91 Stat. 391.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-83 authorized payment of tuition and fees for trainees.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(f) of Pub. L. 95-83 provided in part that the amendment by Pub. L. 95-83 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294r of this title.

SUBPART IV—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

§ 294t. National Health Service Corps Scholarship Program

[*See main edition for text of (a) to (c)*]

(d) Priority in approval of applications and acceptance of contracts

In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

[*See main edition for text of (1)*]

(2) second, to applications made (and contracts submitted)—

(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year;

(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year of study in a

course of study or program described in subsection (b)(1)(B) of this section in such school year; and

(C) for each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year.

[*See main edition for text of* (e) *to* (j)]

(As amended Dec. 19, 1977, Pub. L. 95-215, § 5, 91 Stat. 1506.)

AMENDMENTS

1977—Subsec. (d)(2). Pub. L. 95-215 substituted provisions relating to the school years beginning in calendar years 1978 and 1979 for provisions relating to the school year ending in the fiscal year beginning Oct. 1, 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95-215 provided in part that the amendment by Pub. L. 95-215 is effective Oct. 1, 1977.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1976, TOWARD SERVICE OBLIGATION

Section 408(b)(2) of Pub. L. 94-484, as amended, eff. Oct. 12, 1976, by Pub. L. 95-83, title III, § 307(p), Aug. 1, 1977, 91 Stat. 394, provided that:

"(A) Except as provided in subparagraphs (B) and (C), the amendment made by paragraph (1) of this subsection [enacting this subpart and repealing section 234 of this title] shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

"(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) [former section 234(f)(1) of this title] prescribing the financial obligation of a participant in the Public Health and National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program from appropriations for such Program for any fiscal year ending before October 1, 1977.

"(C) If an individual received a scholarship under the Public Health and National Health Service Corps Scholarship Program for any school year beginning before the date of the enactment of this Act [Oct. 12, 1976], periods of internship or residency served by such individual in a facility of the National Health Service Corps or other facility of the Public Health Service shall be creditable in satisfying such individual's service obligation incurred under that Program for such scholarship or for any scholarship received under the National Health Service Corps Scholarship Program for any subsequent school year. If an individual received a scholarship under the Public Health and National Health Service Corps Program for the first time from appropriations for such Program for the fiscal year ending September 30, 1977, periods of internship or residency served by such individual in such a facility shall be creditable in satisfying such individual's service obligation incurred under that Program for such scholarship."

§ 294w. Breach of scholarship contract

[*See main edition for text of* (a) *and* (b)]

(c) Failure to commence or complete service obligation; formula to determine liability; payment to United States

If an individual breaches his written contract by failing (for any reason) either to begin such individual's service obligation in accordance with section 294u or 294v of this title or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi([t-s/t])$$

in which "A" is the amount the United States is entitled to recover, "ϕ" is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with section 294u of this title or a written agreement under section 294v of this title. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract, be paid to the United States.

[*See main edition for text of* (d)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(g), 91 Stat. 391.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 substituted "'ϕ' is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans" for "'ϕ' is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan".

§ 294y. Authorization of appropriations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294y-1 of this title.

§ 294y-1. Indian Health Scholarships

(a) Authorization of appropriations

In addition to the sums authorized to be appropriated under section 294y(a) of this title to carry out the Scholarship Program, there are authorized to be appropriated $5,450,000 for the fiscal year ending September 30, 1978, $6,300,000 for the fiscal year ending September 30, 1979, $7,200,000 for the fiscal year ending September 30, 1980, and for each of the succeeding four fiscal years such sums as may be specifically authorized by an Act enacted after August 1, 1977, to provide scholarships under

the Scholarship Program to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated "Indian Health Scholarships" and shall be made in accordance with this subpart, except as provided in subsection (b) of this section.

(b) Recipients; active duty service obligation

(1) The Secretary, acting through the Indian Health Service, shall determine the individuals who shall receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional services by specific health professions.

(2) The active duty service obligation prescribed in the written contract entered into under this subpart shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.], or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

(c) Indians

For purposes of this section, the term "Indians" has the same meaning given that term by subsection (c) of section 4 of the Indian Health Care Improvement Act [25 U.S.C. 1603(c)] and includes individuals described in clauses (1) through (4) of that subsection.

(July 1, 1944, ch. 373, title VII, § 757, as added Aug. 1, 1977, Pub. L. 95-83, title III, § 307(n)(1), 91 Stat. 392.)

REFERENCES IN TEXT

The Indian Health Care Improvement Act, referred to in subsec. (b)(2), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended. Title V of the Indian Health Care Improvement Act is classified generally to subchapter IV (§ 1651 et seq.) of chapter 18 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

EFFECTIVE DATE

Section 307(n)(1) of Pub. L. 95-83 provided in part that this section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 1614.

SUBPART V—OTHER SCHOLARSHIPS

§ 294z. Scholarships for first year students of exceptional financial need

(a) Grants to schools

The Secretary shall make grants to a public or nonprofit school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, or veterinary medicine which is accredited as provided in section 293a(b)(1)(B) of this title, for scholarships to be awarded by the school to full-time students thereof who are of exceptional financial need and who are in their first year of study at such school.

[*See main edition for text of* (b) *to* (d)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(h), 91 Stat. 391.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 struck out "in the school year ending in the fiscal year in which such grant is made" following "at such school".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(h) of Pub. L. 95-83 provided in part that the amendment by Pub. L. 95-83 is effective Oct. 1, 1977.

PART E—GRANTS TO IMPROVE QUALITY OF SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, PUBLIC HEALTH, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY

§ 295f. Capitation grants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 292c, 292h, 292j, 294d, 294j, 294t, 295f-1, 295f-2 of this title.

§ 295f-1. Eligibility for capitation grants

(a) General requirements

The Secretary shall not make a grant under section 295f of this title to any school in a fiscal year beginning after September 30, 1977, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

[*See main edition for text of* (1) *and* (2)]

(b) Medical schools

[*See main edition for text of* (1)]

(2)(A)(i) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1977, in direct or affiliated medical res<idency training programs in primary care is at least 35 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 295f of this title for the fiscal year ending September 30, 1978, a school of medicine shall have on July 15, 1978, at least 35 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

[*See main edition for text of* (ii) *and* (iii), (B)]

(C) In determining if a school of medicine meets an applicable requirement of clause (i), (ii), or (iii) of subparagraph (A) for a fiscal year, the number of filled first year positions in direct or affiliated medical residency training programs of such school in primary care on July 15 in such fiscal year shall be reduced by the number of individuals who were in a first year position in a direct or affiliated medical residency training program of such school in pri-

mary care on July 15 in the previous fiscal year and who on July 15 in the fiscal year to which the requirement applies were not in a direct or affiliated medical residency training program of any school in primary care. Each determination, with respect to a school, under this subparagraph shall, not later than 45 days after the date on which the determination is made, be reported in writing to such school and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Human Resources of the Senate.

[*See main edition for text of (D)*]

(E) The Secretary shall not make any grant under section 295f of this title to a school of medicine for any fiscal year if the Secretary, after providing notice and opportunity for a hearing, determines that such school—

[*See main edition for text of (i) and (ii), (F)*]

(3)(A) Except as provided under subparagraph (D), a school of medicine may not receive a grant under section 295f of this title to be made in the fiscal year ending September 30, 1978, unless its application for such grant contains or is supported by assurances satisfactory to the Secretary that such school will increase its enrollment of full-time, third-year students as prescribed by subparagraph (B).

(B) The enrollment increase referred to in subparagraph (A) is an enrollment increase in a school of medicine—

(i) which is to occur in school year 1978–1979,

(ii) in the number of full-time, third-year students over the number of full-time, second-year students who successfully completed the second-year program of such school in the preceding school year and enrolled in the third-year class of such school, and

(iii) which is not less than 5 per centum of the number of—

(I) full-time, first-year students enrolled in such school in school year 1977–1978, or

(II) full-time, third-year students enrolled in such school in school year 1977–1978,

whichever is less.

(C) In determining the number of full-time, third-year students enrolled in a school in a school year in which an increase is required by subparagraph (B)(i)—

(i) full-time, third-year students of such school who were not second-year students in such school and—

(I) who are not citizens of the United States,

(II) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) applies,

(III) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) does not apply because of subparagraph (D) and for whom a position in the third-year class of such school was available in such school year,

(IV) who first enrolled after October 12, 1976, in a school of medicine not in a State,

(V) who were previously enrolled in a school of dentistry or a school of osteopathy, or

(VI) who were previously enrolled in a school of medicine which is in a State and which is not accredited by the body or bodies approved for such purpose by the Commissioner of Education,

shall not be counted; and

(ii) full-time, second-year students enrolled in such year who are citizens of the United States and who were first enrolled before October 12, 1976, in a school of medicine not in a State shall be counted as third-year students.

(D) The Secretary may waive (in whole or in part) the requirement of subparagraph (A) for a school of medicine—

(i) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation;

(ii) upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, an increase in its enrollment of third-year students to meet such requirement will prevent it from providing high quality clinical training for each of its third-year students; or

(iii) if the Secretary determines that such school has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to meet such requirement solely because there is an insufficient number of students who, under this paragraph, are eligible to be counted in determining if the school has met such requirement.

The requirement of subparagraph (A) does not apply to the application of a school of medicine for a grant under section 295f of this title if in school year 1977–1978 such school had an enrollment of full-time, first-year students which exceeded its enrollment in such school year of full-time, third-year students by at least 25 per centum.

(E) A school of medicine which did not receive a grant under section 295f of this title because it did not comply with the applicable requirements of this paragraph shall not be eligible to receive a grant under such section to be made in the fiscal year ending September 30, 1979, or in the next fiscal year.

[*See main edition for text of (c)*]

(d) Schools of dentistry

[*See main edition for text of (1)*]

(2) In the case of a school of dentistry which in school year 1976–1977 had at least six filled, first-year positions in dental specialty programs, in the school year beginning in the fiscal year ending September 30, 1978, and in each school year thereafter beginning in a fiscal year

for which a grant under section 295f of this title is applied for, at least 70 percent of such a school's filled, first-year positions in dental specialty programs which are in excess of the number of filled, first-year positions in its programs in the school year beginning in the fiscal year ending September 30, 1977, shall be first-year positions in dental specialty programs in general dentistry or pedodontics.

[*See main edition for text of (3) and (4); (e) to (i)*]

(July 1, 1944, ch. 373, title VII, § 771, as added Oct. 12, 1976, Pub. L. 94-484, title V, § 502, 90 Stat. 2293, and amended S. Res. 4, Feb. 4, 1977; Aug. 1, 1977, Pub. L. 95-83, title III, § 307(i), 91 Stat. 391; Dec. 19, 1977, Pub. L. 95-215, §§ 1(a), 2, 91 Stat. 1503, 1504.)

CODIFICATION

Subsec. (a) is set out in part in this supplement to correct an error in citation in the main edition.

AMENDMENTS

1977—Subsec. (b)(2)(C). Pub. L. 95-83, § 307(i)(1), substituted where appearing the second time "training program of any school in primary care" for "training program of such school in primary care".

Subsec. (b)(2)(E). Pub. L. 95-83, § 307(i)(2), struck out from the introductory text "in the fiscal year" preceding "such school".

Subsec. (b)(3). Pub. L. 95-215, § 1(a), amended par. (3) generally and required schools of medicine, as a condition of capitation support, to increase their third-year enrollment in the 1978-1979 school year but, in making the increase, not to count transfer students who are not U.S. citizens, who are from medical schools which have a place for that student in the third year, who first enrolled in a foreign medical school after Oct. 12, 1976, who would be transferring from schools of dentistry or osteopathy, or who would be transferring from unaccredited U.S. schools of medicine, and authorized the Secretary to waive the requirement of an enrollment increase in certain cases.

Subsec. (b)(3)(A). Pub. L. 95-83, § 307(i)(3), substituted "in" for "immediately before" preceding "the fiscal year".

Subsec. (b)(3)(B). Pub. L. 95-83, § 307(i)(4), reenacted existing provisions, and, among other changes, inserted (i)(II), substituted in (ii)(I) "in a school of medicine not in a State, and, in the case of a student described in clause (i)(II), successfully completed a program described in such clause" for "in such school of medicine", and substituted in the last sentence "among the schools of medicine in the States adequate to fill the needs of students identified in accordance with the preceding sentence" for "adequate to fill the needs of students described in subparagraph (B) among the schools of medicine in the States".

Subsec. (d)(2). Pub. L. 95-215, § 2, limited the requirement that, in order to be eligible for capitation grants, dental schools must provide assurances that at least 70 percent of any of the school's new residency programs be in general dentistry or perodontics by adding provisions under which the requirement would be applicable only to dental schools which, in school year 1976-1977, had at least six first year positions in dental specialty programs.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(i)(1) of Pub. L. 95-83 provided in part that the amendment of subsec. (b)(2)(C) of this section by section 307(i)(1) of Pub. L. 95-83 is effective Oct. 1, 1977.

Section 307(i)(2) of Pub. L. 95-83 provided in part that the amendment of subsec. (b)(2)(E) of this section by section 307(i)(2) of Pub. L. 95-83 is effective Oct. 1, 1977.

Section 307(i)(3) of Pub. L. 95-83 provided in part that the amendment of subsec. (b)(3)(A) of this section by section 307(i)(3) of Pub. L. 95-83 is effective Oct. 1, 1977.

Section 307(i)(4) of Pub. L. 95-83 provided in part that the amendment of subsec. (b)(3)(B) of this section by section 307(i)(4) of Pub. L. 95-83 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a, 294j, 295f, 295f-2 of this title.

§ 295f-2. Applications for capitation, start-up, special project, and financial distress grants

[*See main edition for text of (a)*]

(b) Eligibility conditions

To be eligible for a grant under section 295f of this title or subsection (a) or (b) of section 295g-8 of this title the applicant must (1) be a public or other nonprofit school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause shall be deemed to be satisfied if (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Secretary that there is reasonable ground to expect that, with the aid of a grant (or grants) under those sections, having regard for the purposes of the grant for which application is made, such school will meet such accreditation standards within a reasonable time.

[*See main edition for text of (c) and (d)*]

(e) References to year class of students

For purposes of administering the requirements of section 295f-1 of this title, a reference to a year class of students is a reference to students enrolled in that class for the first time.

(As amended Dec. 19, 1977, Pub. L. 95-215, §§ 1(b), 8(c), 91 Stat. 1504, 1507.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-215, § 8(c), substituted "section 295g-8 of this title" for "section 778", thereby correcting a typographical error under which the "section 778" reference, not being susceptible of transla-

tion to a Code section, had been carried in text as originally enacted.

Subsec. (e). Pub. L. 95-215, § 1(b), added subsec. (e).

PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

§ 295g-1. Area health education centers

[*See main edition for text of (a) to (c)*]

(d) Area served by the center; activities of the center

[*See main edition for text of (1)*]

(2) Each area health education center shall—

[*See main edition for text of (A) and (B)*]

(C) provide for or conduct a medical residency training program in family medicine, general internal medicine, or general pediatrics in which no fewer than six individuals are enrolled in first-year positions in such program;

[*See main edition for text of (D) to (H)*]

Any area health education center which is participating in an area health education center program in which another center has a medical res<idency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

[*See main edition for text of (e) to (g)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(j), 91 Stat. 392.)

AMENDMENTS

1977—Subsec. (d)(2)(C). Pub. L. 95-83 required the area health education centers to provide a medical residency training program in general pediatrics.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(j) of Pub. L. 95-83 provided in part that the amendment by Pub. L. 95-83 is effective Oct. 1, 1977.

§ 295g-8. Project grant authority for start-up assistance, financial distress, interdisciplinary training, and curriculum development

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295f-2 of this title.

§ 295g-9. Training in emergency medical services

(a) Authority of Secretary; grants to and contracts with appropriate educational and public entities

(1) The Secretary may make grants to and enter into contracts with hospitals having training programs which meet requirements established by the Secretary, schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, other appropriate educational entities, and other appropriate public entities (as defined in paragraph (2)) to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), to assist in meeting the cost of training (including the cost of establishing programs for the training) of physicians in emergency medicine, especially training which affords clinical experience in providing medical services in emergency medical services systems receiving assistance under subchapter X of this chapter and to provide financial assistance (in the form of traineeships and fellowships) to residents who plan to specialize or work in the practice of emergency medicine.

[*See main edition for text of (2); (b) to (g)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(k), 91 Stat. 392.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-83 substituted ", to assist in meeting the cost of training (including the cost of establishing programs for the training) of physicians in emergency medicine, especially training which affords clinical experience in providing medical services in emergency medical services systems receiving assistance under subchapter X of this chapter, and to provide financial assistance (in the form of traineeships and fellowships) to residents who plan to specialize or work in the practice of emergency medicine" for "and to assist in meeting the cost of training, and establishment of programs for the training, of physicians in emergency medicine, especially training programs affording clinical experience in emergency medical services systems receiving assistance under subchapter X of this chapter."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d-7 of this title.

PART G—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

SUBPART II—ALLIED HEALTH PERSONNEL

§ 295h-5. Project grants and contracts with eligible entities

(a) Description of specific projects

The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to:

[*See main edition for text of (1) to (3)*]

(4) Establishment or improvement of programs of recruitment, training, and retraining of allied health personnel.

[*See main edition for text of (5) and (6); (b)*]

(c) Eligible entities

For purposes of subsection (a) of this section, the term "eligible entities" means entities which are—

[*See main edition for text of (1)*]

(2) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both;

(3) entities which have a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in paragraph (1); or

(4) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a) of this section.

[*See main edition for text of* (*d*)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(*l*), (m), 91 Stat. 392.)

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-83, § 307(*l*), substituted "or improvement of programs" for "of methods".

Subsec. (c)(4). Pub. L. 95-83, § 307(m), added subsec. (c)(4).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(*l*) of Pub. L. 95-83 provided in part that the amendment of subsec. (a)(4) of this section by section 307(*l*) of Pub. L. 95-83 is effective Oct. 1, 1977.

Section 307(m) of Pub. L. 95-83 provided in part that the amendment of subsec. (c)(2), (3), (4) of this section by section 307(m) of Pub. L. 95-83 is effective Oct. 1, 1977.

SUBCHAPTER VI—NURSE TRAINING

PART A—ASSISTANCE FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

SUBPART II—CAPITATION GRANTS

§ 296e. Grants for institutional support

(a) Computation

The Secretary shall make annual grants to schools of nursing for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year as follows:

(1) Each collegiate school of nursing shall receive $400 for each undergraduate full-time student enrolled in each of the last two years of such school in such fiscal year.

(2) Each associate degree school of nursing shall receive (A) the product of $275 and one-half of the number of full-time students enrolled in the first year of such school in such year, and (B) $275 for each full-time student enrolled in the last year of such school in such fiscal year.

(3) Each diploma school of nursing shall receive $250 for each full-time student enrolled in such school in such fiscal year.

[*See main edition for text of* (*b*)]

(c) Requirements

(1) The Secretary shall not make a grant under subsection (a) of this section to any school of nursing in a fiscal year beginning after June 30, 1975, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that—

(A) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

(B) that the school will expend in carrying out its function as a school of nursing, during the school year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purposes (excluding expenditures of a nonrecurring nature) in the three school years immediately preceding the school year for which such grant is sought.

The requirement of subparagraph (A) shall be in addition to the requirements of section 296a(b)(2)(D) of this title, where applicable.

(2) The Secretary shall not make a grant under subsection (a) of this section to any school of nursing in a fiscal year beginning after June 30, 1975, unless one of the following requirements is met:

(A) The application for such grant shall contain or be supported by reasonable assurances satisfactory to the Secretary that for the school year beginning in the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1975—

[*See main edition for text of* (*i*) *and* (*ii*)]

(B) The school has provided reasonable assurance satisfactory to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by him, at least two of the following programs in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made:

[*See main edition for text of* (*i*) *to* (*iv*); (*d*) *to* (*f*)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(*o*)(1)-(4), 91 Stat. 393.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 307(*o*)(1), (2), inserted in introductory text "for each fiscal year" following "shall be computed" and substituted wherever appearing in pars. (1) to (3) "such fiscal year" for "such year".

Subsec. (c)(1)(A). Pub. L. 95-83, § 307(*o*)(3)(A), substituted "beginning in" for "beginning after".

Subsec. (c)(1)(B). Pub. L. 95-83, § 307(*o*)(4), substituted "school" for "fiscal" wherever appearing.

Subsec. (c)(2)(A), (B). Pub. L. 95-83, § 307(*o*)(3)(B), substituted in subpars. (A) and (B) "the school year beginning in the fiscal year" for "the school year beginning after the close of the fiscal year".

SUBPART IV—SPECIAL PROJECTS

§ 296m. Grants and contracts for nurse practitioner training programs

(a) Covered costs; priorities for applications; definition; guidelines for programs; minimum requirements for guidelines

(1) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other public or nonprofit private entities to meet the cost of projects to—

(A) plan, develop, and operate,

(B) significantly expand, or

(C) maintain existing,

programs for the training of nurse practitioners. The Secretary shall give special consideration to applications for grants or contracts for programs for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 254e of this title) and for the training of nurse practitioners which emphasize training respecting the special problems of geriatric patients and training to meet the particular needs of nursing home patients.

[*See main edition for text of* (2)]

(b) Traineeship programs

(1) The Secretary may make grants to and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area (designated under section 254e of this title).

(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area (designated under section 254e of this title).

(c) Required assurances in applications

No grant may be made or contract entered into for a project to plan, develop, and operate a program for the training of nurse practitioners unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program will upon its development meet the guidelines which are in effect under subsection (a)(2)(B) of this section; and no grant may be made or contract entered into for a project to expand or maintain such a program unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program meets the guidelines which are in effect under such subsection.

(d) Additional covered costs

The costs for which a grant or contract under this section may be made may include costs of preparation of faculty members in order to conform to the guidelines established under subsection (a)(2)(B) of this section.

(e) Authorization of appropriations

For payments under grants and contracts under this section there are authorized to be appropriated $15,000,000 for fiscal year 1976, $20,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307 (o)(5)(A), 91 Stat. 393.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-83, § 307(o)(5)(A)(i), inserted in last sentence following "contracts for programs" text reading "for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 254e of this title) and".

Subsecs. (b) to (e). Pub. L. 95-83, § 307(o)(5)(A)(ii), added subsec. (b) and redesignated as subsecs. (c) to (e) former subsecs. (b) to (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 307(o)(5)(C) of Pub. L. 95-83 provided that: "The amendments made by this paragraph [amending this section and section 297 of this title] shall be effective as of October 12, 1976."

PART B—ASSISTANCE TO NURSING STUDENTS

SUBPART I—TRAINEESHIPS

§ 297. Grants to cover costs of traineeships for training of professional nurses

(a) Authority of Secretary; special considerations; preferences; payments; limitations

[*See main edition for text of* (1)]

(2) In making grants for traineeships under this subsection, the Secretary shall give special consideration to applications for traineeship programs which conform to guidelines established by the Secretary under section 296m(a)(2)(B) of this title.

[*See main edition for text of* (3)]

(b) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(o)(5)(B), 91 Stat. 394.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-83, § 307(o)(5)(B)(1), struck out text following "traineeship programs" reading "(A) for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 254e of this title), and (B) for traineeship programs".

Subsec. (b). Pub. L. 95-83, § 307(o)(5)(B)(2), (3), struck out subsec. (b) provisions relating to grants and contracts for establishment and operation of traineeship programs for residents of health manpower shortage areas, amount of award, and service commitment in health manpower shortage areas and redesignated as subsec. (b) provisions of former subsec. (c).

Subsec. (c). Pub. L. 95-83, § 307(o)(5)(B)(3), redesignated former subsec. (c) as (b).

SUBCHAPTER VIII—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

§ 300. Project grants and contracts for family planning services

[*See main edition for text of (a) and (b)*]

(c) Authorization of appropriations

For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; $111,500,000 for the fiscal year ending June 30, 1973, $111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $115,000,000 for fiscal year 1976; $115,000,000 for the fiscal year ending September 30, 1977; and $136,400,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 305(a), 91 Stat. 388.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $136,400,000 for fiscal year ending Sept. 30, 1978.

STUDY AS TO DISCRIMINATION BY SCHOOLS OF MEDICINE, NURSING, OR OSTEOPATHY AGAINST APPLICANTS BECAUSE OF RELUCTANCE OR WILLINGNESS TO PARTICIPATE IN ABORTIONS OR STERILIZATIONS; REPORT NOT LATER THAN FEBRUARY 1, 1978

Pub. L. 95-215, § 7, Dec. 19, 1977. 91 Stat. 1507, provided that: "The Secretary of Health, Education, and Welfare shall conduct a study to determine whether schools of medicine, nursing, or osteopathy deny admission or otherwise discriminate against any applicant to such schools because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his or her religious beliefs or moral convictions. Not later than February 1, 1978, the Secretary shall complete such study and report his findings and recommendations to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Human Resources of the Senate."

§ 300a-1. Training grants and contracts; authorization of appropriations

[*See main edition for text of (a)*]

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $3,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975; $4,000,000 for fiscal year ending 1976; $5,000,000 for the fiscal year ending September 30, 1977; and $3,000,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 305(b), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $3,000,000 for fiscal year ending Sept. 30, 1978.

§ 300a-2. Research activities, grants and contracts; authorization of appropriations; availability of appropriated funds

[*See main edition for text of (a)*]

(b)(1) To carry out subsection (a) of this section there are authorized to be appropriated $55,000,000 for fiscal year 1976, $60,000,000 for the fiscal year ending September 30, 1977, and $68,500,000 for the fiscal year ending September 30, 1978.

(2) No funds appropriated under any provision of this chapter (other than this subsection) may be used to conduct or support the research described in subsection (a) of this section or for the administration of this section.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 305(c), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-83 substituted in par. (1) provision for an appropriate authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $68,500,000 for fiscal year ending Sept. 30, 1978, and prohibited in par. (2) use of funds for administration of this section.

§ 300a-3. Informational and educational materials development grants and contracts; authorization of appropriations

[*See main edition for text of (a)*]

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $2,000,000 for fiscal year 1976; $2,500,000 for the fiscal year ending September 30, 1977; and $600,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 305(d), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $600,000 for fiscal year ending Sept. 30, 1978.

SUBCHAPTER IX—GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

PART B—SUDDEN INFANT DEATH SYNDROME

§ 300c-11. Sudden infant death syndrome counseling, information, educational, and statistical programs

[*See main edition for text of* (a)]

(b) Grants and contracts for projects; applications: approval by Secretary, form, contents; payments: advances or reimbursement, intervals and conditions; provisions of section 529 of title 31 and section 5 of title 41 inapplicable to contracts; authorization of appropriations

[*See main edition for text of* (1) *to* (4)]

(5) For the purpose of making payments pursuant to grants and contracts under this subsection there are authorized to be appropriated $2,000,000 for the fiscal year 1975, $3,000,000 for the fiscal year 1976, $4,000,000 for the fiscal year ending September 30, 1977, and $3,650,000 for the fiscal year ending September 30, 1978.

[*See main edition for text of* (c)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 306(a), 91 Stat. 389; Dec. 19, 1977, Pub. L. 95-215, § 8(a), 91 Stat. 1507.)

AMENDMENTS

1977—Subsec. (b)(5). Pub. L. 95-215 inserted "fiscal year" before "ending September 30, 1977".

Subsec. (b)(5). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $3,650,000 for fiscal year ending Sept. 30, 1978.

PART C—HEMOPHILIA PROGRAMS

§ 300c-21. Comprehensive hemophilia diagnostic and treatment centers

[*See main edition for text of* (a) *to* (e)]

(f) Authorization of appropriations

There are authorized to be appropriated to make payments under grants and contracts under subsection (a) of this section $3,000,000 for fiscal year 1976, $4,000,000 for the fiscal year ending September 30, 1977, and $4,550,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 306(b), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $4,550,000 for fiscal year ending Sept. 30, 1978.

§ 300c-22. Blood-separation centers

[*See main edition for text of* (a) *to* (d)]

(e) Authorization of appropriations

For the purpose of making payments under grants and contracts under subsections (a) and (b) of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1976, $5,000,000 for the fiscal year ending September 30, 1977, and $3,450,000 for the fiscal year ending September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 306(c), 91 Stat. 389.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $3,450,000 for fiscal year ending Sept. 30, 1978.

SUBCHAPTER X—EMERGENCY MEDICAL SERVICES SYSTEMS

PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS

§ 300d-1. Grants and contracts for feasibility studies and planning

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-5, 300d-6, 300d-7 of this title.

§ 300d-4. Grants and contracts for research

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-5, 300d-6, 300d-7 of this title.

§ 300d-7. Administration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-4, 300d-8 of this title.

§ 300d-8. Interagency Committee on Emergency Medical Services

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-1, 300d-2, 300d-3, 300d-7 of this title.

PART B—BURN INJURIES

§ 300d-21. Programs relating to burn injuries

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d-5, 300d-7 of this title.

SUBCHAPTER XI—HEALTH MAINTENANCE ORGANIZATIONS

§ 300e. Requirements of health maintenance organizations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e-5, 300e-6, 300e-9, 300e-10, 300e-11, 300e-13, 300e-14, 1301, 1320a-3, 1396b of this title.

§ 300e-8. Authorization of appropriations

(a) For the purpose of making payments under grants and contracts under sections 300e-2, 300e-3(a), and 300e-3(b) of this title, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, $45,000,000 for the fiscal year

ending September 30, 1977, and $45,000,000 for the fiscal year ending September 30, 1978; and for the purpose of making payments under grants and contracts under section 300e-3(b) of this title for the fiscal year ending September 30, 1979, there is authorized to be appropriated $50,000,000.

[*See main edition for text of* (b)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 105(b), 91 Stat. 384.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 substituted, where appearing the second time, "September 30, 1979" for "September 30, 1977".

SUBCHAPTER XII—SAFETY OF PUBLIC WATER SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300j-10, 4365, 6905 of this title.

PART A—DEFINITIONS

§ 300f. Definitions

For purposes of this subchapter:

[*See main edition for text of* (1) *to* (11)]

(12) The term "person" means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).

[*See main edition for text of* (13)]

(As amended Nov. 16, 1977, Pub. L. 95-190, § 8(b), 91 Stat. 1397.)

AMENDMENTS

1977—Par. (12). Pub. L. 95-190 expanded definition of "person" to include Federal agency, and officers, employees, and agents of any corporation, company, etc.

SHORT TITLE OF 1977 AMENDMENTS

For Short Title of Pub. L. 95-190, which amended this subchapter, see Short Title of 1977 Amendments note set out under section 201 of this title.

SAFE DRINKING WATER AMENDMENTS OF 1977 RESTRICTIONS ON APPROPRIATIONS FOR RESEARCH

Section 2(e) of Pub. L. 95-190 provided that: "Nothing in this Act [see Short Title of 1977 Amendment note set out under section 201 of this title] shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act [this subchapter] (relating to safe drinking water)."

SAFE DRINKING WATER AMENDMENTS OF 1977 AS NOT AFFECTING AUTHORITY OF ADMINISTRATOR WITH RESPECT TO CONTAMINANTS

Section 3(e)(2) of Pub. L. 95-190 provided that: "Nothing in this Act [see Short Title of 1977 Amendment note set out under section 201 of this title] shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act [this subchapter] to promulgate regulations or take other action with respect to any contaminant."

RURAL WATER SURVEY; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Section 3 of Pub. L. 93-523, as amended by Pub. L. 95-190, §§ 2(d), 3(d), Nov. 16, 1977, 91 Stat. 1393, 1394, provided that:

* * * * *

"(b) Such survey shall be completed within eighteen months of the date of enactment of this Act [Dec. 16, 1974] and a final report thereon submitted, not later than six months after the completion of such survey, to the President and to the Congress. Such report shall include recommendations for improving rural water supplies.

"(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; $1,000,000 for the fiscal year ending June 30, 1977; and $1,000,000 for each of fiscal years 1978 and 1979."

PART B—PUBLIC WATER SYSTEMS

§ 300g-1. National drinking water regulations

[*See main edition for text of* (a) *to* (d)]

(e) Study; maximum contaminant level determination; adverse effect of contaminants of undetermined levels; report to Congress; funds

[*See main edition for text of* (1)]

(2) The result of the study shall be reported to Congress not later than 2 years after December 16, 1974, and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research; and (G) periodic assessments and evaluations of unregulated contaminants which may require continuous monitoring or regulation.

[*See main edition for text of* (3) *to* (6)]

(As amended Nov. 16, 1977, Pub. L. 95-190, §§ 3(c), 12(a), 91 Stat. 1394, 1398.)

AMENDMENTS

1977—Subsec. (e)(2). Pub. L. 95-190 added provisions relating to revisions of the required report and cl. (G).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300f, 300g-2, 300g-3, 300g-4, 300g-5, 300j-1, 300j-2, 300j-3, 300j-4, 300j-7 of this title; title 21 section 349.

§ 300g-3. Failure of State to assure enforcement of drinking water regulations

[*See main edition for text of (a) and (b)*]

(c) Notice of owner or operator of public water system to persons served; regulations for form, manner, and frequency of notice; penalties

Each owner or operator of a public water system shall give notice to the persons served by it—

[*See main edition for text of (1) and (2)*]

The Administrator shall by regulation prescribe the form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 300j-4(a) of this title. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

[*See main edition for text of (d) to (f)*]

(As amended Nov. 16, 1977, Pub. L. 95-190, § 12(b), 91 Stat. 1398.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-190 added provisions relating to frequency of required notice, and notice respecting contaminant levels, and substituted "issued under this subsection" for "thereunder".

§ 300g-5. Exemptions

[*See main edition for text of (a)*]

(b) Compliance schedule and implementation of control measures; notice and hearing; dates for compliance with schedule; compliance, enforcement; approval or revision of schedules and revocation of exemptions

(1) If a State grants a public water system an exemption under subsection (a) of this section, the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

[*See main edition for text of (2) to (4); (c) to (g)*]

(As amended Nov. 16, 1977, Pub. L. 95-190, § 10(a), 91 Stat. 1398.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-190 substituted "contaminant" for "containment" whereever appearing therein, which for purposes of codification had been substituted as the probable intent of Congress in the 1976 Edition of this Code, thereby requiring no further change in text.

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

§ 300h. Regulations for State programs

[*See main edition for text of (a)*]

(b) Minimum requirements; restrictions

[*See main edition for text of (1) and (2)*]

(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number or[1] States.

(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground

[1] So in original. Probably should read "of".

sources of drinking water will not be endangered by an underground injection.

(C) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection.

[*See main edition for text of* (c) *and* (d)]

(As amended Nov. 16, 1977, Pub. L. 95-190, § 6(b), 91 Stat. 1396.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-190 added subsec. (b)(3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h-1, 300j-2, 300j-6, 300j-7 of this title.

§ 300h-1. State primary enforcement responsibility

[*See main edition for text of* (a)]

(b) State applications; notice to Administrator of compliance with revised or added requirements, approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing

(1)(A) Each State listed under subsection (a) of this section shall within 270 days after the date of promulgation of any regulation under section 300h of this title (or, if later, within 270 days after such State is first listed under subsection (a) of this section) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 300h of this title; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

[*See main volume for text of* (B), (2) *to* (4); (c) *and* (d)]

(As amended Nov. 16, 1977, Pub. L. 95-190, § 6(a), 91 Stat. 1396.)

AMENDMENTS

1977—Subsec. (b)(1)(A). Pub. L. 95-190 added provisions relating to extension of the date for submission of applications by any State.

PART E—GENERAL PROVISIONS

§ 300j. Assurances of availability of adequate supplies of chemicals necessary for treatment of water

[*See main edition for text of* (a) *to* (e)]

(f) Termination dates

No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after September 30, 1979,

whichever occurs first.

(As amended Nov. 16, 1977, Pub. L. 95-190, § 7, 91 Stat. 1396.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-190 substituted "September 30, 1979" for "June 30, 1977".

§ 300j-1. Research, technical assistance, information, training of personnel

(a) Specific powers and duties of Administrator

[*See main edition for text of* (1)]

(2)(A) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 300j-2(c)(1) of this title).

(B) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.

(3)(A) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 300g-1 of this title.

(B) Not later than eighteen months after November 16, 1977, the Administrator shall submit a report to Congress which identifies and analyzes—

(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans, and loan guarantees, and other methods of assisting in paying the costs of such compliance;

(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, medium, and small public water systems and of individually owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.

[*See main edition for text of (4) to (9)*]

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

(b) Other powers and duties of Administrator

In carrying out this subchapter, the Administrator is authorized to—

[*See main edition for text of (1) to (2)*]

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

[*See main edition for text of (A) and (B)*]

(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this subchapter (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 300j-2(c) of this title)).

(c) Report to Congress on present and projected future availability of safe drinking water; additional contents; utilization of information and data

Not later than eighteen months after November 16, 1977, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.

(d) Establishment of training programs and grants for training; training fees

The Administrator shall—

(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies or units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section other than subsection (a)(2)(B) of this section and provisions relating to research $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; $35,000,000 for the fiscal year ending June 30, 1977; and $17,000,000 for each of the fiscal years 1978 and 1979. There are authorized to be appropriated to carry out subsection (a)(2)(B) of this section $8,000,000 for each of the fiscal years 1978 and 1979.

(As amended Nov. 16, 1977, Pub. L. 95-190, §§ 2(a), 3(a), (b), (e)(1), 4, 9, 10(b), 13, 91 Stat. 1393-1395, 1397-1399.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-190, §§ 9, 13, designated existing provisions as subpar. (A), added subpar. (B) and, in subpar. (B) as added, substituted provisions authorizing the Administrator to make grants and provide technical assistance for any emergency situation affecting public water systems and criteria for such grants and assistance for provisions authorizing the Administrator to make grants and provide technical assistance for any emergency situation respecting drinking water and criteria for determination of such situations.

Subsec. (a)(3). Pub. L. 95-190, § 3(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10), (11). Pub. L. 95-190, § 3(e)(1), added subsec. (a) (10) and (11).

Subsec. (b)(3)(C). Pub. L. 95-190, § 10(b), substituted "300j-2(c)" for "300j-2(d)".

Subsec. (c). Pub. L. 95-190, § 3(b), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 95-190, § 4, added subsec. (d).

Subsec. (e). Pub. L. 95-190, §§ 2(a), 3(b), redesignated former subsec. (c) as (e) and, as so redesignated, added provisions authorizing appropriations for fiscal years 1978 and 1979, and provisions relating to appropriations for subsec. (a)(2)(B) of this section and for research.

§ 300j-2. Grants for State programs

(a) Public water systems supervision programs; applications for grants; allotment of sums; waiver of grant restrictions; notice of approval or disapproval of application; authorization of appropriations

[*See main edition for text of (1) to (4)*]

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning of fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

(A) within ninety days after receipt of such application, or

(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.

(7) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, $25,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, and $45,000,000 for fiscal year 1979.

(b) Underground water source protection programs; applications for grants; allotment of sums; authorization of appropriations

[*See main edition for text of (1) to (4)*]

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, $7,500,000 for the fiscal year ending June 30, 1977, and $10,000,000 for each of the fiscal years 1978 and 1979.

[*See main edition for text of (c)*]

(As amended Nov. 16, 1977, Pub. L. 95-190, §§ 2(b), (c), 5(a), 91 Stat. 1393, 1395.)

AMENDMENTS

1977—Subsec. (a)(5). Pub. L. 95-190, § 5(a), added subsec. (a)(5). Former subsec. (a)(5) redesignated (a)(7).

Subsec. (a)(6). Pub. L. 95-190, § 5(a), added subsec. (a)(6).

Subsec. (a)(7). Pub. L. 95-190, §§ 2(b), 5(a), redesignated former subsec. (a)(5) as (a)(7) and, as so redesignated, authorized appropriations for fiscal years 1978 and 1979.

Subsec. (b)(5). Pub. L. 95-190, § 2(c), added provisions authorizing appropriations for fiscal years 1978 and 1979.

§ 300j-3a. Grants to public sector agencies

(a) Assistance for development and demonstration projects

The Administrator of the Environmental Protection Agency shall offer grants to public sector agencies for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health and conservation implications involved in the reclamation, recycling, and reuse of wastewaters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Limitations

Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no

such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consultation, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(c) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $25,000,000 for fiscal year 1978.

(Pub. L. 95-155, § 5, Nov. 8, 1977, 91 Stat. 1258.)

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the Public Health Service Act, which comprises this chapter.

§ 300j-4. Records and inspections

(a) Persons subject to requirements

Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 300g-1 of this title or to an applicable underground injection control program (as defined in section 300h-1(c) of this title), who is or may be subject to the permit requirement of section 300h-3 of this title, or to an order issued under section 300j of this title, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter in administering any program of financial assistance under this subchapter, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks.

(b) Entry of establishments, facilities, or other property; inspections; conduct of certain tests; audit and examination of records; entry restrictions; prohibition against informing of a proposed entry

(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to (A) a national primary drinking water regulation prescribed under section 300g-1 of this title, (B) an applicable underground injection control program, or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a) of this section, or person in charge of any of the property of such supplier or other person referred to in clause (A), (B), or (C), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this subchapter, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) of this section or which are pertinent to any financial assistance under this subchapter.

[*See main edition for text of* (2); (c) *to* (e)]

(As amended Nov. 16, 1977, Pub. L. 95-190, § 12 (c), (d), 91 Stat. 1398.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-190, § 12(c), added provisions relating to evaluating and advising of health risks of unregulated contaminants.

Subsec. (b)(1). Pub. L. 95-190, § 12(d), designated existing provisions as cls. (A) and (B) and added cl. (C) and reference to such cls. (A) to (C).

§ 300j-6. Federal agencies

(a) Compliance with Federal, State, and local requirements, etc.; scope of applicability of compliance requirements, etc.; liability for civil penalties

Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 300h(d)(2) of this title) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this subchapter with respect to any act or omission within the scope of his official duties.

[*See main edition for text of* (b)]

(c) Indian rights and sovereignty as unaffected

(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indian lands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

(2) For the purposes of this chapter, the term "Federal agency" shall not be construed to refer to or include any American Indian tribe,

nor to the Secretary of the Interior in his capacity as trustee of Indian lands.

(As amended Nov. 16, 1977, Pub. L. 95-190, § 8(a), (d), 91 Stat. 1396, 1397.)

REFERENCES IN TEXT

The Safe Drinking Water Amendments of 1977, referred to in subsec. (c)(1), is Pub. L. 95-190, Nov. 16, 1977, 91 Stat. 1393. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 201 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-190, § 8(a), substituted provisions relating to compliance by Federal agencies having jurisdiction over federally owned or maintained public water systems, or engaged in underground injection activities with Federal, State, and local requirements, etc., for provisions relating to compliance by Federal agencies having jurisdiction over federally owned or maintained public water systems with national primary drinking water regulations.

Subsec. (c). Pub. L. 95-190, § 8(d), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300j-8 of this title.

§ 300j-7. Judicial review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j-8 of this title.

§ 300j-8. Citizen's civil action

[*See main edition for text of (a) to (d)*]

(e) Availability of other relief

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this subchapter or to seek any other relief. Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this subchapter, except as provided in section 300j-7 of this title. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 300j-6 of this title.

(As amended Nov. 6, 1977, Pub. L. 95-190, § 8(c), 91 Stat. 1397.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-190 added provisions relating to suits by State or local governments for enforcement of safe drinking water, etc., requirements.

§ 300j-10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation

To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act [42 U.S.C. 300f et seq.] (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5.

(Pub. L. 95-190, § 11(b), Nov. 16, 1977, 91 Stat. 1398.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIV of the Public Health Service Act is classified generally to this subchapter (§ 300f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The civil service laws, referred to in text are set out in Title 5, Government Organization and Employees. See particularly section 3301 et seq. of that title.

CODIFICATION

Section was enacted as part of the Safe Drinking Water Amendments of 1977 and not as part of the Public Health Service Act, which comprises this chapter.

SUBCHAPTER XIII—NATIONAL HEALTH PLANNING AND DEVELOPMENT

PART A—NATIONAL GUIDELINES FOR HEALTH PLANNING

§ 300k-3. National Council on Health Planning and Development

[*See main edition for text of (a)*]

(b) Composition; terms of office of members

(1) The Council shall be composed of fifteen members. The Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare shall be nonvoting ex officio members of the Council. The remaining members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Of the voting members, not less than five shall be persons who are not providers of health services, not more than three shall be officers or employees

of the Federal Government, not less than three shall be members of governing bodies of health systems agencies designated under part B of this subchapter, and not less than three shall be members of Statewide Health Coordinating Councils established under section 300m-3 of this title. The two major political parties shall have equal representation among the voting members on the Council.

[*See main edition for text of* (2) *and* (3); (c) *to* (e)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(a), 91 Stat. 384.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-83 inserted "established" preceding "under section 300m—3 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254j, 300k-1 of this title.

PART B—HEALTH SYSTEMS AGENCIES

§ 300*l*. Health service areas

(a) Requirements; factors considered in establishing boundaries

Except as provided in section 300n-5 of this title, there shall be established, in accordance with this section, health service areas throughout the United States with respect to which health systems agencies shall be designated under section 300*l*-4 of this title. Each health service area shall meet the following requirements:

[*See main edition for text of* (1) *to* (4)]

The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs between non-metropolitan and metropolitan areas. Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area, then such statistical area shall not be required to be entirely within the boundaries of such health service area.

[*See main edition for text of* (b) *and* (c)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(b), 91 Stat. 384.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 inserted the introductory exception phrase.

§ 300*l*-1. Health systems agency

[*See main edition for text of* (a)]

(b) Legal structure; staff; governing body; responsibilities; composition; limitation of individual liability; acceptance of contributions; reports

[*See main edition for text of* (1) *and* (2)]

(3) [*See main edition for text of* (A)]

(B) The governing body—

(i) shall be responsible for the internal affairs of the health systems agency, including matters relating to the staff of the agency, the agency's budget, and procedures and criteria (developed and published pursuant to section 300n-1 of this title) applicable to its functions under subsections (e), (f), (g), and (h) of section 300*l*-2 of this title;

[*See main edition for text of* (ii) *to* (viii)]

The governing body (and executive committee (if any)) of a health systems agency shall act only by vote of a majority of its members present and voting at a meeting called upon adequate notice to all of its members and at which a quorum is in attendance. A quorum for a governing body and executive committee shall be not less than one-half of its members.

[*See main edition for text of* (C), (4) *to* (6)]

(c) Subarea councils

A health systems agency may establish subarea advisory councils representing parts of the agency's health service area to advise the governing body of the agency on the performance of its functions. The composition of a subarea advisory council shall conform to the requirements of subsection (b)(3)(C) of this section.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, 106(c), (d), 91 Stat. 384.)

AMENDMENTS

1977—Subsec. (b)(3)(B)(i). Pub. L. 95-83, § 106(c), included reference to subsec. (h).

Subsec. (c). Pub. L. 95-83, § 106(d), substituted "agency's health" for "agencies' health".

§ 300*l*-2. Functions of health systems agencies

(a) Health planning as primary responsibility

For the purpose of—

[*See main edition for text of* (1) *to* (4)]

each health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. To meet its primary responsibility, a health systems agency shall carry out the functions described in subsections (b) through (h) of this section.

(b) Health Systems and Annual Implementation Plans; establishment; review

In providing health planning and resources development for its health service area, a

health systems agency shall perform the following functions:

[*See main edition for text of (1)*]

(2) The agency shall, after appropriate consideration of the recommended national guidelines for health planning policy issued by the Secretary under section 300k-1 of this title, the priorities set forth in section 300k-2 of this title, and the data developed pursuant to paragraph (1), establish, annually review, and amend as necessary a health systems plan (hereinafter in this subchapter referred to as the "HSP") which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which are responsive to the unique needs and resources of the area; and (C) which take into account and are consistent with the national guidelines for health planning policy issued by the Secretary under section 300k-1 of this title respecting supply, distribution, and organization of health resources and services. Before establishing an HSP, a health systems agency shall conduct a public hearing on the proposed HSP and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to such hearing, the agency shall publish in at least two newspapers of general circulation throughout its health service area a notice of its consideration of the proposed HSP, the time and place of the hearing, the place at which interested persons may consult the HSP in advance of the hearing, and the place and period during which to submit written comments to the agency on the HSP.

[*See main edition for text of (3) and (4); (c)*]

(d) Coordination of activities with other agencies

Each health systems agency shall coordinate its activities with—

[*See main edition for text of (1) to (4)*]

in the health systems agency's health service area. The agency shall, as appropriate, secure data from them for use in the agency's planning and development activities, enter into agreements with them which will assure that actions taken by such entities which alter the area's health systems will be taken in a manner which is consistent with the HSP and the AIP in effect for the area, and, to the extent practicable, provide technical assistance to such entities.

[*See main edition for text of (e) to (h)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(e)-(i), 91 Stat. 384, 385.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 106(e), (f), deleted a superfluous "the" preceding "provision" and substituted reference to subsec. "(h)" for "(g)".

Subsec. (b)(1). Pub. L. 95-83, § 106(g), corrected margin indent of last sentence of par. (1) to be part of par. (1) rather than to appear to be part of the introductory subsec. (b) text, which has been so executed in the main edition, thus requiring no change in this Supplement.

Subsec. (b)(2)(C). Pub. L. 95-83, § 106(h), substituted "are" for "is" preceding "consistent".

Subsec. (d). Pub. L. 95-83, § 106(i), substituted "systems" for "system" in text following par. (4) in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*-1, 300*l*-3, 300*l*-4, 300m-1, 300m-2, 300n-1, 300n-2, 300n-3, 300n-4, 300n-5, 300*o*-3, 300t of this title.

§ 300*l*-3. Assistance to entities desiring to be designated as health systems agencies

The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to public or nonprofit private entities (including entities presently receiving financial assistance under section 246(b) of this title or subchapter VII of this chapter or as experimental health service delivery systems under section 242b of this title) which—

(1) express a desire to be designated as health systems agencies, and

(2) the Secretary determines have a potential to meet the requirements of a health systems agency specified in sections 300*l*-1 and 300*l*-2 of this title,

to assist such entities in developing applications to be submitted to the Secretary under section 300*l*-4 of this title and otherwise in preparing to meet the requirements of this part for designation as a health systems agency.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(j), 91 Stat. 385.)

AMENDMENTS

1977—Pub. L. 95-83 authorized assistance for public entities.

§ 300*l*-4. Designation of health systems agencies

[*See main edition for text of (a)*]

(b) Conditional designation

[*See main edition for text of (1)*]

(2) During any period of conditional designation (which, except as otherwise provided in this paragraph, may not exceed 24 months), the Secretary may require that the entity conditionally designated meet only such of the requirements of section 300*l*-1(b) of this title and perform only such of the functions prescribed by section 300*l*-2 of this title as he determines such entity to be capable of meeting and performing. The Secretary may, upon application of a conditionally designated entity, extend for an additional period of not to exceed 12 months the period of such entity's conditional designation if the Secretary determines that (A) unusual circumstances exist or existed which prevent such entity from qualifying for designation under subsection (c) of this section within

24 months of such entity's conditional designation under this subsection, (B) such extension should enable such entity to qualify for designation under subsection (c) of this section, and (C) such extension is necessary to carry out the purposes of this subchapter. Each such determination shall be in writing and shall include a summary of the reasons for it. The number and type of such requirements and functions shall, during the period of conditional designation, be progressively increased as the entity conditionally designated becomes capable of added responsibility so that, by the end of such period, the agency may be considered for designation under subsection (c) of this section.

[*See main edition for text of (3) and (4); (c)*]

(d) Substitution on termination of agreements

If a designation under subsection (b) or (c) of this section of a health systems agency for a health service area is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) or (c) of this section (as the Secretary determines appropriate), enter into a designation agreement with another entity to be the health system agency for such area.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(k), 91 Stat. 385; Dec. 19, 1977, Pub. L. 95-215, § 6(a)(1), 91 Stat. 1507.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-215 authorized the Secretary, upon application of a conditionally designated entity, to extend for an additional period of not to exceed 12 months the period of such entity's conditional designation if the Secretary determines that (A) unusual circumstances exist or existed which prevent such entity from qualifying for designation under subsec. (c) of this section within 24 months of such entity's conditional designation under subsec. (b), (B) such extension should enable such entity to qualify for designation under subsec. (c) of this section, and (C) such extension is necessary to carry out the purposes of this subchapter, with each such determination to be in writing and to include a summary of the reasons for it.

Subsec. (d). Pub. L. 95-83 substituted "health service area" for "health services area".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254e, 254f, 254j, 300d, 300d-5, 300*l*, 300*l*-2, 300*l*-3, 300*l*-5, 300t, 1320a of this title.

§ 300*l*-5. Planning grants

(a) Conditions; restriction on use of funds

The Secretary shall make in each fiscal year a grant to each health systems agency with which there is in effect a designation agreement under subsection (b) or (c) of section 300*l*-4 of this title. A grant under this subsection shall be made on such conditions as the Secretary determines is appropriate, shall be used by a health systems agency for compensation of agency personnel, collection of data, planning and the performance of the functions of the agency, and shall be available for obligation for a period not to exceed the period for which its designation agreement is entered into or renewed (as the case may be), except that in the case of a grant made to a conditionally designated entity with which the Secretary will not enter into a designation agreement under section 300*l*-4(c), such grant shall be available for obligation for such additional period as the Secretary determines such entity will require to satisfactorily terminate its activities under the agreement for its conditional designation. A health systems agency may use funds under a grant under this subsection to make payments under contracts with other entities to assist the health systems agency in the performance of its functions; but it shall not use funds under such a grant to make payments under a grant or contract with another entity for the development or delivery of health services or resources.

[*See main edition for text of (b)*]

(c) Authorization of appropriations

(1) For the purpose of making payments pursuant to grants made under subsection (a) of this section, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, $90,000,000 for the fiscal year ending June 30, 1976, and $125,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

[*See main edition for text of (2)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 102(a), 91 Stat. 383; Dec. 19, 1977, Pub. L. 95-215, § 6(a)(2), 91 Stat. 1507.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-215 added ", except that in the case of a grant made to a conditionally designated entity with which the Secretary will not enter into a designation agreement under section 300*l*-4(c) of this title, such grant shall be available for obligation for such additional period as the Secretary determines such entity will require to satisfactorily terminate its activities under the agreement for its conditional designation".

Subsec. (c)(1). Pub. L. 95-83 substituted "each for the fiscal years ending September 30, 1977, and September 30, 1978" for "for the fiscal year ending June 30, 1977".

PART C—STATE HEALTH PLANNING AND DEVELOPMENT

§ 300m. Designation of State health planning and development agencies

(a) Authority of Secretary to enter into agreements

For the purpose of the performance within each State of the health planning and development functions prescribed by section 300m-2 of this title, the Secretary shall enter into and renew agreements (described in subsection (b) of this section) for the designation of a State health planning and development agency for each State.

(b) State administrative program; Governor as the authority to select agency; requirements; conditional designation; period of agreement; termination; designation of State agency for the State; termination and renewal

[*See main edition for text of (1)*]

(2) [*See main edition for text of (A)*]

(B) The period of an agreement described in subparagraph (A) may not exceed thirty-six months. During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 300m-2 of this title as he determines it is capable of performing. The number and type of such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3).

[*See main edition for text of* (C), (3) *and* (4); (c)]

(d) Suspension of grants

If, upon the expiration of the fourth fiscal year which begins after 1975, an agreement under this section for the designation of a State Agency for a State is not in effect, the Secretary may not make any allotment, grant, loan, or loan guarantee, or enter into any contract, under this chapter, the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.] for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(*l*), (m), 91 Stat. 385; Dec. 19, 1977, Pub. L. 95-215, § 6(b), 91 Stat. 1507.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 106(*l*), deleted end text following "for each State" reading "other than a State for which the Secretary may not under subsection (d) of this section enter into, continue in effect, or renew such an agreement".

Subsec. (b)(2)(B). Pub. L. 95-215 substituted "thirty-six months" for "twenty-four months".

Subsec. (d). Pub. L. 95-83, § 106(m), substituted "the calendar year in which the National Health Planning and Research Development Act of 1974 is enacted" for "the calendar year in which the National Health Policy, Planning, and Resources Development Act of 1974 is enacted". However, due to the translation of the latter provision to read "1975" for codification purposes, no change in text is required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254e, 254f, 254j, 300*l*-2, 300d, 300m-2, 300m-3, 300m-4, 300m-5, 300n-5, 1320a, 2689u of this title; title 12 sections 1715w, 1715z-7.

§ 300m-2. State health planning and development functions

[*See main edition for text of* (a) *and* (b)]

(c) Statement

If a State Agency makes a decision in carrying out a function described in paragraph (4), (5), or (6) of subsection (a) of this section which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(n), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 deleted reference to par. (7) of subsec. (a) of this section.

§ 300m-4. Grants for State health planning and development

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations

For the purpose of making payments under grants under subsection (a) of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $35,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 102(b), 91 Stat. 383.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 substituted "each for the fiscal years ending September 30, 1977, and September 30, 1978" for "for the fiscal year ending June 30, 1977".

§ 300m-5. Grants for rate regulation

(a) Limitation

For the purpose of demonstrating the effectiveness of State Agencies regulating rates for the provision of health care, the Secretary may make grants to a State Agency designated, under an agreement entered into under section 300m(b)(3) of this title, for a State which (in accordance with regulations prescribed by the Secretary) has indicated an intent to regulate (not later than six months after January 4, 1975) rates for the provision of health care within the State. Not more than six State Agencies may receive grants under this subsection.

[*See main edition for text of* (b) *to* (d)]

(e) Authorization of appropriations

There are authorized to be appropriated to make payments under grants under subsection (a) of this section $4,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $6,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, §§ 102(c), 106(o), 91 Stat. 383, 385.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 inserted "grants" following "may make".

Subsec. (e). Pub. L. 95-83, § 102(c), substituted "each for the fiscal years ending September 30, 1977, and September 30, 1978" for "for the fiscal year ending June 30, 1977".

PART D—GENERAL PROVISIONS

§ 300n-3. Centers for health planning

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Authorization of appropriations

For the purpose of making payments pursuant to grants and contracts under subsection (a) of this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 102(d), 91 Stat. 383.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 substituted "each for the fiscal years ending September 30, 1977, and September 30, 1978" for "for the fiscal year ending June 30, 1977".

§ 300n-5. Special provisions for certain States and territories

(a) Any State which—

(1) has no county or municipal public health institution or department, and

(2) has, prior to January 4, 1975, maintained a health planning system which substantially complies with the purposes of this subchapter,

and the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa shall each be considered in accordance with subsection (b) of this section to be a State for purposes of this subchapter.

(b) In the case of an entity which under subsection (a) of this section is to be considered a State for purposes of this subchapter—

[*See main edition for text of* (*1*) *to* (*3*)]

(4) the chief executive officer shall appoint the Statewide Health Coordinating Council prescribed by section 300m-3 of this title in accordance with regulations of the Secretary.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(p), (q), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 106(p), substituted "Trust Territory of the Pacific Islands, the Northern Mariana Islands" for "Trust Territories in the Pacific Islands".

Subsec. (b)(4). Pub. L. 95-83, § 106(q), substituted "officer" for "office", and "regulations" for "the regulation".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l* of this title.

SUBCHAPTER XIV—HEALTH RESOURCES DEVELOPMENT

PART A—PURPOSE, STATE PLAN, AND PROJECT APPROVAL

§ 300o-1. Promulgation of regulations; required provisions

The Secretary shall by regulation—

[*See main edition for text of* (*1*) *to* (*4*)]

(5) require each State medical facilities plan under section 300o-2 of this title to provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor; and

[*See main edition for text of* (*6*)]

An entity subject to the requirements prescribed pursuant to paragraph (6) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably support the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(r), (s), 91 Stat. 385.)

AMENDMENTS

1977—Pub. L. 95-83 substituted in par. (5) "section 300o-2 of this title" for "section 300k-3 of this title" and in provisions following par. (6) "reasonably support" for "reasonably supports".

§ 300o-2. State medical facilities plan; submission and approval as prerequisite for approval of project assistance application; required provisions; procedure upon disapproval of plan

(a) Before an application for assistance under this subchapter (other than part D) for a medical facility project described in section 300o of this title may be approved, the State Agency of the State in which such project is located must have submitted to the Secretary and had approved by him a State medical facilities plan. To be approved by the Secretary a State medical facilities plan for a State must—

[*See main edition for text of* (*1*) *to* (*3*)]

(4) set forth, in accordance with criteria established in regulations prescribed under section 300o-1 of this title and on the basis of a statewide inventory of existing medical facilities, a survey of need, and the plans of health systems agencies within the State—

[*See main volume for text of* (*A*) *to* (*C*)]

(5) set forth a program for the State for assistance under this subchapter for projects described in section 300o of this title, which program shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need set forth pursuant to paragraph (4) and

regulations promulgated under section 300o-1 of this title;

(6) set forth (in accordance with regulations promulgated under section 300o-1 of this title) priorities for the provision of assistance under this subchapter for projects in the program set forth pursuant to paragraph (5);

(7) provide minimum requirements (to be fixed in the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this subchapter, and provide for enforcement of such requirements;

[*See main edition for text of* (8) *and* (9); (b)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(t)-(v), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (a)(4), (5). Pub. L. 95-83, § 106(t), substituted "section 300o-1 of this title" for "section 300o-1(a) of this title".

Subsec. (a)(6). Pub. L. 95-83, § 106(t), (u), substituted "section 300o-1 of this title" for "section 300o-1(a) of this title" and "paragraph (5)" for "paragraph (4)".

Subsec. (a)(7). Pub. L. 95-83, § 106(v), substituted "such requirements" for "such standards".

§ 300o-3. Medical facility project applications

[*See main edition for text of* (a)]

(b) Required provisions; waiver; projects subject to requirements

(1) Except as authorized under paragraph (2), an application for any project shall set forth—

[*See main edition for text of* (A) *and* (B)]

(C) plans and specifications therefor which meet the requirements of the regulations prescribed under section 300o-1 of this title;

[*See main edition for text of* (D) *to* (J)]

(2)(A) The Secretary may waive—

(i) the requirements of subparagraph (C) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 300o-1(2) of this title, and

(ii) the requirement of subparagraph (D) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B).

[*See main edition for text of* (B)]

(c) Criteria for approval

The Secretary shall approve an application submitted under subsection (b) of this section (other than an application for a grant under section 300r of this title) if—

(1) in the case of a project to be assisted from an allotment made under part B of this subchapter, there are sufficient funds in such allotment to pay the Federal share of the project; and

(2) the Secretary finds that—

(A) the application (i) is in conformity with the State medical facilities plan approved under section 300o-2 of this title, (ii) has been approved and recommended by the State Agency, (iii) is for a project which is entitled to priority over other projects within the State as determined in accordance with the approved State medical facilities plan, and (iv) contains the assurances required by subsection (b) of this section; and

(B) the plans and specifications for the project meet the requirements of the regulations prescribed pursuant to section 300o-1 of this title.

[*See main edition for text of* (d) *to* (f)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(t), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (b)(1)(C). Pub. L. 95-83 substituted "section 300o-1 of this title" for "section 300o-1(a) of this title".

Subsec. (b)(2)(A). Pub. L. 95-83 in cl. (i) substituted "section 300o-1(2) of this title" for "section 300o-1(a)(2) of this title".

Subsec. (c)(2)(B). Pub. L. 95-83 substituted "section 300o-1 of this title" for "section 300o-1(a) of this title".

PART B—ALLOTMENTS

§ 300p. Allotments for States

(a) Authorization; criteria

For each fiscal year, the Secretary shall, in accordance with regulations, make from sums appropriated for such fiscal year under section 300p-3 of this title allotments among the States on the basis of the population, the financial need, and need for medical facilities projects described in section 300o of this title of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

[*See main edition for text of* (b) *and* (c)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(w), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 substituted "300p-3" for "300*l*-2".

§ 300p-3. Authorization of appropriations

Except as provided in section 300r(d) of this title, there are authorized to be appropriated for allotments under section 300p of this title $125,000,000 for the fiscal year ending June 30, 1975, $130,000,000 for the fiscal year ending June 30, 1976, and $135,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 103(a), 91 Stat. 383.)

AMENDMENTS

1977—Pub. L. 95-83 substituted "each for the fiscal years ending September 30, 1977, and September 30, 1978" for "for the fiscal year ending June 30, 1977".

PART C—LOAN AND LOAN GUARANTEES

§ 300q. Loan and loan guarantee authority

(a) Loan authority for payment of Federal share of approved projects; duration

The Secretary, during the period beginning July 1, 1974, and ending September 30, 1978, may, in accordance with this part, make loans from the fund established under section 300q-2(d) of this title to pay the Federal share of projects approved under section 300o-3 of this title.

(b) Loan guarantee authority for payment of principal and interest on loans for approved projects; duration; payments for reduction of interest rate

(1) The Secretary, during the period beginning July 1, 1974, and ending September 30, 1978, may, in accordance with this part, guarantee to—

(i) non-Federal lenders for their loans to nonprofit private entities for medical facilities projects, and

(ii) the Federal Financing Bank for its loans to nonprofit private entities for such projects,

payment of principal and interest on such loans if applications for assistance for such projects under this subchapter have been approved under section 300o-3 of this title.

[*See main edition for text of (2); (c) and (d)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(x)(1), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83 substituted "September 30, 1978" for "September 30, 1977".

Subsec. (b)(1). Pub. L. 95-83 substituted "September 30, 1978" for "September 30, 1977".

§ 300q-2. General provisions

[*See main edition for text of (a) and (b)*]

(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds

[*See main edition for text of (1) to (4)*]

(5) If any loan to a public entity under this part is sold and guaranteed by the Secretary under this subsection, interest paid on such loan after its sale and any interest subsidy paid, under paragraph (3)(A)(ii), by the Secretary with respect to such loan which is received by the purchaser of the loan (or the purchaser's successor in interest) shall be included in the gross income of the purchaser or successor for the purpose of chapter 1 of title 26.

[*See main edition for text of (d)*]

(e) Transfers to and additional capitalization of loan and loan guarantee fund

[*See main edition for text of (1)*]

(2) To provide additional capitalization for the fund established under subsection (d) of this section there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(x)(2), (y), 91 Stat. 385.)

AMENDMENTS

1977—Subsec. (c)(5). Pub. L. 95-83, § 106(y), added subsec. (c)(5).

Subsec. (e)(2). Pub. L. 95-83, § 106(x)(2), substituted reference to appropriations authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year ending June 30, 1977, and authorized appropriations for fiscal year ending Sept. 30, 1978.

PART D—PROJECT GRANTS

§ 300r. Grants for construction or modernization projects

[*See main edition for text of (a) to (c)*]

(d) Amount of appropriations available for fiscal year

Of the sums appropriated under section 300p-3 of this title for a fiscal year, there shall be made available for grants under subsection (a) of this section for such fiscal year 22 per centum of such sums. In addition to the amounts made available for such grants under the preceding sentence for the fiscal year ending September 30, 1978, there are authorized to be appropriated $67,500,000 for such fiscal year for such grants.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 103(b), 91 Stat. 383.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 authorized additional grant appropriations of $67,500,000 for fiscal year ending Sept. 30, 1978.

PART E—GENERAL PROVISIONS

§ 300s-3. Definitions

For the purposes of this subchapter—

[*See main edition for text of (1) to (13)*]

(14) The term "State Agency" means the State health planning and development agency of a State designated under subchapter XIII of this chapter.

[*See main edition for text of (15) and (16)*]

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 106(z), 91 Stat. 386.)

AMENDMENTS

1977—Par. (14). Pub. L. 95-83 substituted "subchapter XIII" for "subchapter XII".

PART F—AREA HEALTH SERVICES DEVELOPMENT FUNDS

§ 300t. Development grants for health systems agencies

[*See main edition for text of (a) to (c)*]

(d) Authorization of appropriations

For the purpose of making payments pursuant to grants under subsection (a) of this sec-

tion, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, and $120,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 103(c), 91 Stat. 383.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 substituted "each for the fiscal years ending September 30, 1977, and September 30, 1978" for "for the fiscal year ending June 30, 1977".

CHAPTER 7—SOCIAL SECURITY

SUBCHAPTER II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Sec.
433. International agreements [New].
(a) Purpose of agreement.
(b) Definitions.
(c) Crediting periods of coverage; conditions of payment of benefits.
(d) Regulations.
(e) Reports to Congress; effective date of agreements.

SUBCHAPTER IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

611. Availability of wage information to States and political subdivisions; procedural safeguards [New].

PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

661. Regulations pertaining to garnishments. [New]
(a) Authority to promulgate.
(b) Requisite content of promulgated regulations.
(c) Priority of processes.
662. Definitions [New].

SUBCHAPTER VII—ADMINISTRATION

907a. National Commission on Social Security [New].
(a) Establishment; membership; Chairman and Vice Chairman; quorum; terms of office; vacancies; per diem and expense reimbursement; meetings.
(b) Continuing study, investigation, and review of social security program; scope of study, etc., and public participation.
(c) Special, annual, and final reports to President and Congress concerning implementation, etc., of study, investigation, and review responsibilities; termination of Commission.
(d) Executive Director and additional personnel; appointment and compensation.
(e) Administrative procedures.
(f) Data and information from other Federal departments and agencies.
(g) Administrative support services from General Services Administration; reimbursement.
(h) Authorization of appropriations.
(i) Notice of and attendance at meetings of Health Insurance Benefits Advisory Council.
909. Delivery of benefit checks; recovery of overpayments [New].

SUBCHAPTER XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

PART A—GENERAL PROVISIONS

1320a. Uniform reporting systems for health services facilities and organizations [New].
(a) Establishment; criteria for regulations; requirements for hospitals.
(b) Monitoring, etc., of systems by Secretary.
(c) Availability of information to appropriate agencies and organizations.
1320a-3. Disclosure of ownership and related information; procedure; definitions; scope of requirements [New].
1320a-4. Issuance of subpenas by Comptroller General [New].
(a) Authorization; scope; service and proof of service.
(b) Contumacy or refusal to obey subpena; contempt proceedings.
(c) Nondisclosure of personal medical records by General Accounting Office.
1320a-5. Disclosure by institutions, organizations, and agencies of owners, officers, etc., convicted of offenses related to programs; notification requirements; definition [New].

PART B—PROFESSIONAL STANDARDS REVIEW

1320c-20. Federal-State relations [New].
(a) Memorandum of understanding between Professional Standards Review Organization and State agency as prerequisite for conclusiveness of determinations of Organization; waiver.
(b) Specification by Organization of review goals and methods in memorandum of understanding; procedures applicable.
(c) Contract by State agency and Organization for performance of additional review responsibilities by Organization; reimbursement as expense of State agency.
(d) State monitoring plans for State agency oversight of Organization performance of review responsibilities; development, approval, and contents; criteria and procedure for suspension of authority of Organization by Secretary.
(e) Establishment by Secretary of procedures and mechanisms to govern relations with State agencies; requirements for procedures and mechanisms; disclosure of information and data by Organization to State agency.
1320c-21. Annual reports to Congress; contents [New].
1320c-22. Medical officers in American Samoa, Northern Mariana Islands, and the Trust Territory of the Pacific Islands includable in program [New].

SUBCHAPTER XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

1396k. Assignment, enforcement, and collection of rights of payments for medical care; establishment of procedures pursuant to State plan; amounts retained by State [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 242c, 907a, 2932, 3195, 4636 of this title; title 20 section 1070a; title 25 sections 459e, 639, 640d-21, 1264, 1407; title 26 sections 162, 412, 1402; title 29 section 1082; title 31 sections 1351, 1352; title 45 sections 231, 231a, 231b, 231c, 231d, 231e, 231f, 231q, 231r; title 50 App. section 1291.

SUBCHAPTER I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1395v, 1395z, 1396a, 1396b, 1396d, 1397b of this title; title 29 section 981; title 31 section 665.

SUBCHAPTER II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 662, 907, 907a, 909, 1320b-1, 1382c, 1382f, 1383, 1395c, 1395v, 1395gg, 1395ii, 1395oo, 1396a, 5055 of this title; title 5 sections 8141, 8311, 8345; title 10 section 1451; title 14 section 760; title 26 sections 401, 404, 411, 3121; title 29 sections 206, 926, 993d, 1026, 1054, 1056; title 30 sections 922, 923; title 38 sections 412, 415, 503, 3005; title 45 sections 231b, 231c, 231f, 231n, 231r, 354; title 50 App. section 36.

§ 401. Trust Funds

[See main edition for text of (a)]

(b) Federal Disability Insurance Trust Fund

There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) one-half of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.65 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2)(A) three-eighths of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by

the Secretary of Health, Education, and Welfare in accordance with such returns.

[*See main edition for text of* (c) *to* (i)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title I, § 102(a), 91 Stat. 1513.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-216, § 102(a)(1), substituted "(G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.65 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported" for "(G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported".

Subsec. (b)(2). Pub. L. 95-216, § 102(a)(2), substituted "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989" for "(G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 applicable with respect to remuneration paid or received, and taxable years beginning after 1977, see section 104 of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 1401 of Title 26, Internal Revenue Code.

§ 402. Old-age and survivors insurance benefit payments

[*See main edition for text of* (a)]

(b) Wife's insurance benefits

[*See main edition for text of* (1)]

(2) Except as provided in subsection (q) of this section and paragraph (4) of this subsection, such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.

[*See main edition for text of* (3)]

(4)(A) The amount of a wife's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) of this section shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 410 of this title.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(c) Husband's insurance benefits

(1) The husband (as defined in section 416(f) of this title) of an individual entitled to old-age or disability insurance benefits, if such husband—

(A) has filed application for husband's insurance benefits,

(B) has attained age 62, and

(C) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of his wife,

shall be entitled to a husband's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not

entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2)(A) The amount of a husband's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) of this section shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such husband for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day he was employed by such entity, such service did not constitute "employment" as defined in section 410 of this title.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(3) Except as provided in subsection (q) of this section, and paragraph (2) of this subsection, such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month.

[*See main edition for text of (d)*]

(e) Widow's insurance benefits

[*See main edition for text of (1)*]

(2)(A) Except as provided in subsection (q) of this section, paragraphs (4) and (8) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual.

[*See main volume for text of (B), (3) to (7)*]

(8)(A) The amount of a widow's insurance benefit for each month as determined (after application of the provisions of subsections (q) and (k) of this section, paragraph (2)(B), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 410 of this title.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(f) Widower's insurance benefits

(1) The widower (as defined in section 416(g) of this title) of an individual who died a fully insured individual, if such widower—

[*See main edition for text of (A) to (C)*]

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

(E) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(F) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph (7)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (6) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of his deceased wife, or, if he became entitled to such benefits before he attained age 60, the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).

(2)(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (k) and (q) of this section, paragraph (3)(B), and paragraph (5)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widower for such month which is based upon his earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day he was employed by such entity, such service did not constitute "employment" as defined in section 410 of this title.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a

monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(3)(A) Except as provided in subsection (q) of this section, paragraphs (2) and (5) of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount of his deceased wife.

[*See main edition for text of (B), (4) to (6)*]

(7) The waiting period referred to in paragraph (1)(F), in the case of any widower, is the earliest period of five consecutive calendar months—

[*See main edition for text of (A) and (B), (8)*]

(g) Mother's insurance benefits

[*See main edition for text of (1)*]

(2) Except as provided in paragraph (4) of this subsection, such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a widow or surviving divorced mother who marries—

(A) an individual entitled to benefits under subsection (a), (f), or (h) of this section, or under section 423(a) of this title, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

the entitlement of such widow or surviving divorced mother to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 423(a) of this title or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423(a) of this title or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 423(a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(4)(A) The amount of a mother's insurance benefit for each month to which any individual is entitled under this subsection (as determined after application of subsection (k) of this section) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day such individual was employed by such entity, such service did not constitute "employment" as defined in section 410 of this title.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

[*See main edition for text of (h) and (i)*]

(j) Application for monthly insurance benefits

(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsections (a) to (g), or (h) of this section for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit under this subchapter for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

[*See main edition for text of (2) and (3)*]

(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) of this section for any month prior to the month in which he or she files an application for benefits under that subsection if the effect of entitlement to such benefit would be to reduce, pursuant to subsection (q) of this section, the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a) of this section, and there are one or more other persons who would (except for subparagraph (A)) be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) of this section not subject to reduction under subsection (q) of this section, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(ii) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 423(d) of this title), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then

subparagraph (A) shall not apply with respect to such month or any subsequent month.

(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 403(f) of this title) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

(iv) As used in this subparagraph, the term "retroactive benefits" means benefits to which an individual becomes entitled for a month prior to the month in which application for such benefits is filed.

[*See main edition for text of* (k) *to* (o)]

(p) Extension of period for filing proof of support and applications for lump-sum death payment

In any case in which there is a failure—

(1) to file proof of support under subparagraph (B) of subsection (h)(1) of this section, or under clause (B) of subsection (f)(1) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subparagraph or clause, or

[*See main edition for text of* (2)]

any proof or application, as the case may be, which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application within such period. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

(q) Reduction of benefit amounts for certain beneficiaries

[*See main edition for text of* (1) *and* (2)]

(3)(A) If the first month for which an individual both is entitled to a wife's, husband's, widow's, or widower's insurance benefit and has attained age 62 (in the case of a wife's or husband's insurance benefit) or age 50 (in the case of a widow's or widower's insurance benefit) is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains age 65), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's, husband's, widow's, or widower's insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

[*See main edition for text of* (B) *to* (G)]

(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled for that month or for a month before she or he became entitled to a widow's or widower's benefit, the reduction in such widow's or widower's insurance benefit shall be determined under paragraph (1).

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3).

[*See main edition for text of* (5) *and* (6)]

(7) For purposes of this subsection the "adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6)(A) for such benefit, and the "additional adjusted reduction period" for an individual's, widow's, or widower's insurance benefit is the additional reduction period prescribed by paragraph (6)(B) for such benefit, excluding from each such period—

[*See main edition for text of* (A) *and* (B)]

(C) in the case of wife's or husband's insurance benefits, any month for which such individual was not entitled to such benefits because of the occurrence of an event that terminated her or his entitlement to such benefits,

[*See main edition for text of* (D) *to* (F), (8) *and* (9)]

(10) For purposes of applying paragraph (4), with respect to monthly benefits payable for any month after December 1977 to an individual who was entitled to a monthly benefit as reduced under paragraph (1) or (3) prior to January 1978, the amount of reduction in such benefit for the first month for which such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based and for all subsequent months (and similarly for all subsequent increases) shall be increased by a percentage equal to the percentage increase in such primary insurance amount (such increase being made in accordance with the provisions of paragraph (8)). In the case of an individual whose reduced benefit under this section is increased as a result of the use of an

adjusted reduction period or an additional adjusted reduction period (in accordance with paragraphs (1) and (3) of this subsection), then for the first month for which such increase is effective, and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if applicable) shall be determined—

(A) in the case of old-age, wife's, and husband's insurance benefits, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period to (ii) the number of months in the reduction period,

(B) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent to (ii) the number of months in the reduction period multiplied by 19/40 of 1 percent, plus the number of months in the additional reduction period multiplied by 43/240 of 1 percent, and

(C) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 65, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period multiplied by 19/40 of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent to (ii) the number of months in the reduction period beginning with age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by 19/40 of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent.

such determination being made in accordance with the provisions of paragraph (8).

(11) When an individual is entitled to more than one monthly benefit under this subchapter and one or more of such benefits are reduced under this subsection, paragraph (10) shall apply separately to each such benefit reduced under this subsection before the application of subsection (k) of this section (pertaining to the method by which monthly benefits are offset when an individual is entitled to more than one kind of benefit) and the application of this paragraph shall operate in conjunction with paragraph (3).

[*See main edition for text of* (*r*)]

(s) Child aged 18 or over attending school

[*See main edition for text of* (*1*) *and* (*2*)]

(3) So much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence of subsection (c) of section 403 of this title, subsection (f)(1)(C) of section 403 of this title, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 416 of this title shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 423(d) of this title).

(t) Suspension of benefits of aliens who are outside the United States

[*See main edition for text of* (*1*) *to* (*3*)]

(4) Paragraph (1) of this subsection shall not apply to any benefit for any month if—

[*See main edition for text of* (*A*) *to* (*D*)]

(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this chapter pursuant to the provisions of section 5(k)(1) of the Railroad Retirement Act [45 U.S.C. 288e(k)(1)];

except that subparagraphs (A) and (B) of this paragraph shall not apply in the case of any individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies subparagraph (A) but not subparagraph (B) of paragraph (2), or who is a citizen of a foreign country that has no social insurance or pension system of general application if at any time within five years prior to the month in which the Social Security Amendments of 1967 are enacted (or the first month thereafter for which his benefits are subject to suspension under paragraph (1)) payments to individuals residing in such country were withheld by the Treasury Department under section 123 of title 31.

[*See main edition for text of* (*5*) *to* (*10*)]

(u) Conviction of subversive activities, etc.

(1) If any individual is convicted of any offense (committed after August 1, 1956) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18, or

(B) section 783, 822, or 823 of title 50,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 423 of this title is payable to such individual for the month in which he is convicted or for any month thereafter, in determining the amount of any such benefit payable to such individual for any such month, and in determining whether such individual is entitled to insurance benefits under part A of subchapter XVIII of this chapter for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar year in which such conviction occurs or in any prior calendar year, and

(D) any net earnings from self-employment derived by such individual or by any other in-

dividual during a taxable year in which such conviction occurs or during any prior taxable year.

[*See main edition for text of (2) and (3); (v) and (w)*]

(As amended Dec. 20, 1977, 95-216, title III, §§ 331(a)-(c), 332(a)(1), (2), 334(a)-(d)(4)(A), (5), (6), (e), 353(f)(1), 91 Stat. 1541-1546, 1554.)

AMENDMENT OF SUBSECTIONS (e)(2)(A), (B) AND (f)(3)(A), (B) EFFECTIVE AFTER MAY 1978

Sections 204(a) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits for months after May 1978, subsec. (e)(2)(A) of this section is amended by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w) of this section, then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 415(f) (5) or (6) of this title and under section 415(i) of this title as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of subsection (w) of this section the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in which he died, which satisfy the conditions in paragraph (2) of subsection (w) of this section."

Sections 204(b) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits for months after May 1978, subsec. (e)(2)(B) of this section is amended by inserting in cl. (i) "and section 415(f)(5) or (6) of this title were applied, where applicable," following "were still living".

Sections 204(c) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits for months after May 1978, subsec. (f)(3)(A) of this section is amended by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w) of this section, then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 415(f) (5) or (6) of this title and under section 415(i) of this title as if such individual were still alive in the case of an individual who has died) which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of subsection (w) of this section) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which she died, which satisfy the conditions in paragraph (2) of subsection (w) of this section."

Section 204(d) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits for months after May 1978, subsec. (f)(3)(B) of this section is amended by inserting in cl. (i) "and section 415(f)(5) or (6) of this title were applied, where applicable," following "were still living".

AMENDMENT OF SUBSECTIONS (b)(1)(G); (e)(2)(A), (3), (4); (f)(3)(A), (4), (5); (m)(1); AND (w)(1), (5) EFFECTIVE AFTER DECEMBER 1978

Section 337(b) and (c) of Pub. L. 95-216 provided that, effective with respect to monthly benefits payable under this subchapter for months after Dec. 1978, and, in the case of individuals who are not entitled to benefits of the type involved for Dec. 1978, only on the basis of applications filed on or after Jan. 1, 1979, subsec. (b)(1)(G) of this section is amended by striking out "20 years" and inserting in lieu thereof "10 years".

Section 336(a)(1) and (c)(1) of Pub. L. 95-216 provided that, effective with respect to monthly benefits payable under this subchapter for months after Dec. 1978, and applications filed on or after Jan. 1, 1979, subsec. (e)(2)(A) of this section is amended by substituting "paragraph (8)" for "paragraphs (4) and (8)".

Section 336(a)(2), (3), and (c)(1) of Pub. L. 95-216 provided that, effective with respect to monthly benefits payable under this subchapter for months after Dec. 1978, and applications filed on or after Jan. 1, 1979, subsecs. (e)(3) and (4) of this section are amended to read as follows:

(3) If a widow, before attaining age 60, or a surviving divorced wife, marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the

preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(4) If a widow, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred.

Section 336(b)(1) and (c)(1) of Pub. L. 95-216 provided that, effective with respect to monthly benefits payable under this subchapter for months after Dec. 1978, and applications filed on or after Jan. 1, 1979, subsec. (f)(3)(A) of this section is amended by substituting "paragraph (2)" for "paragraphs (2) and (5)".

Section 336(b)(2), (3), and (c)(1) of Pub. L. 95-216 provided that, effective with respect to monthly benefits payable under this subchapter for months after Dec. 1978, and applications filed on or after Jan. 1, 1979, subsecs. (f)(4) and (5) of this section are amended to read as follows:

(4) If a widower, before attaining age 60, remarries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage.

(5) If a widower, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred.

Sections 205(a) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978, based on wages, etc., of individuals who die after such month, subsec. (m)(1) of this section is amended to read as follows:

(m)(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 415(a) or (d) of this title, as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1) of this section) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k)(3) of this section, shall not be less than that provided by subparagraph (C)(i)(I) of section 415(a)(1) of this title and increased under section 415(i) of this title for months after May of the year in which the insured individual died as though such benefit were a primary insurance amount.

Sections 203, 205(b), and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits under this subchapter and lump-sum death payments for deaths occurring after Dec. 1978, subsecs. (w)(1) and (5) of this section are amended to read as follows:

(w)(1) The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 415(a)(3) of this title as in effect in December 1978, or section 415(a)(1)(C)(i)(II) of this title as in effect thereafter) which is payable without regard to this subsection to an individual shall be increased by—

(A) 1/12 of 1 percent of such amount, or, in the case of an individual who first becomes eligible for an old-age insurance benefit after December 1978, one-quarter of 1 percent of such amount, multiplied by

(B) the number (if any) of the increment months for such individual.

(5) If an individual's primary insurance amount is determined under paragraph (3) of section 415(a) of this title is in effect in December 1978, or section 415(a)(1)(C)(i)(II) of this title as in effect thereafter, and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 415(a) of this title (whether before, in, or after December 1978) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph.

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-216, § 334(a)(1), added reference to par. (4) of this subsection.

Subsec. (b)(4). Pub. L. 95-216, § 334(a)(2), added subsec. (b)(4).

Subsec. (c)(1). Pub. L. 95-216, § 334(b)(1), in subpar. (B) added "and" following "62,", struck out subpar. (C), which related to support payment requirements for the husband, and redesignated former subpar. (D) as (C).

Subsec. (c)(2). Pub. L. 95-216, § 334(b)(2), substituted provisions relating to reduction of the amount of the husband's insurance benefit for each month as determined after application of the provisions of subsecs. (q) and (k) of this section for provisions relating to applicability of provisions of former subsec. (c)(1)(C) of this section, as subject to subsec. (s) of this section.

Subsec. (c)(3). Pub. L. 95-216, § 334(b)(3), added reference to par. (2) of this subsection.

Subsec. (e)(2)(A). Pub. L. 95-216, § 334(c)(1), added reference to par. (8) of this subsection.

Subsec. (e)(8). Pub. L. 95-216, § 334(c)(2), added subsec. (e)(8).

Subsec. (f)(1). Pub. L. 95-216, § 334(d)(1), struck out subpar. (D), which related to receipt of support by the widower in accordance with regulations promulgated by the Secretary, and redesignated former subpars. (E) to (G) as (D) to (F), respectively.

Subsec. (f)(2). Pub. L. 95-216, § 334(d)(2), substituted provisions relating to reduction of the amount of the widower's insurance benefit for each month as determined after application of the provisions of subsecs. (k) and (q) of this section and pars. (3)(B) and (5) of this subsec., for provisions relating to applicability of

former subsec. (f)(1)(D) of this section, as subject to subsec. (s) of this section.

Subsec. (f)(3)(A). Pub. L. 95-216, § 334(d)(3), added reference to par. (2) of this subsection.

Subsec. (f)(7). Pub. L. 95-216, § 334(d)(4)(A), substituted "(F)" for "(G)".

Subsec. (g)(2). Pub. L. 95-216, § 334(e)(1), substituted "Except as provided in paragraph (4) of this subsection, such" for "Such".

Subsec. (g)(4). Pub. L. 95-216, § 334(e)(2), added subsec. (g)(4).

Subsec. (j)(1). Pub. L. 95-216, § 332(a)(1), substituted "Subject to the limitations contained in paragraph (4), an" for "An".

Subsec. (j)(4). Pub. L. 95-216, § 332(a)(2), added subsec. (j)(4).

Subsec. (p)(1). Pub. L. 95-216, § 334(d)(5), struck out references to subsecs. (c)(1)(C) and (f)(1)(D)(i) or (ii) of this section.

Subsec. (q)(3)(H). Pub. L. 95-216, § 331(c)(2), added "for that month or" following "first entitled".

Subsec. (q)(4). Pub. L. 95-216, § 331(a), substituted provisions setting forth factors for the computation of the amount of the reduction of the benefit for each month beginning with the month of the increase in the primary insurance amount, after application of any adjustment under par. (7) of this subsec., for provisions setting forth factors for the computation of the amount of the reduction of the benefit for each month.

Subsec. (q)(7)(C). Pub. L. 95-216, § 331(c)(1), substituted "of the occurrence of an event that terminated her or his entitlement to such benefits" for "the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability".

Subsec. (q)(10), (11). Pub. L. 95-216, § 331(b), added subsec. (q)(10) and (11).

Subsec. (s)(3). Pub. L. 95-216, § 334(d)(6), substituted "So" for "Subsections (c)(2)(B) and (f)(2)(B) of this section, so".

Subsec. (u)(1)(C). Pub. L. 95-216, § 353(f)(1), substituted "year" for "quarter" wherever appearing therein.

Effective Date of 1977 Amendment

Section 206 of title II of Pub. L. 95-216 provided that: "The amendments made by the provisions of this title other than sections 201(d), 204, and 205(a) [amending subsec. (w)(1) and (5) of this section and sections 403(a), 415(a) to (c), (e), (f)(2) to (4), (7), (8), (i)(2)(A)(ii) to (v), (D), (4), 417(b)(1), 424a(a) and 1395r(c)(3)(B) of this title] shall be effective with respect to monthly benefits under title II of the Social Security Act [this subchapter] payable for months after December 1978 and with respect to lump-sum death payments with respect to deaths occurring after such month. The amendments made by section 201(d) [amending section 415(d)(1)(A), (B), (D), (3), and (4) of this title] shall be effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies, after December 1977. The amendments made by section 204 [amending subsec. (e)(2)(A), (B)(i), (f)(3)(A), and (B)(i) of this section and section 403(a)(8) of this title] shall be effective with respect to monthly benefits for months after May 1978. The amendment made by section 205(a) [amending subsec. (m)(1) of this section] shall be effective with respect to monthly benefits payable for months after December 1978 based on the wages and self-employment income of individuals who die after December 1978."

Section 331(d) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsec. (q)(3)(H), (4), (7)(C), (10), and (11) of this section] shall be effective with respect to monthly benefits payable for months after December 1977."

Section 332(b) of Pub. L. 95-216 provided that: "The amendments made by subsection (a) [amending subsec. (j)(1) and (4) of this section and section 426(h)(4) of this title] shall be effective with respect to monthly insurance benefits under title II of the Social Security Act to which an individual becomes entitled on the basis of an application filed on or after January 1, 1978."

Section 334(f) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsecs. (b)(2), (4), (c)(1)(B) to (D), (2), (3), (e)(2)(A), (8), (f)(1)(D) to (G), (2), (3)(A), (7), (g)(2), (4), (p)(1) and (s)(3) of this section and section 426(h)(1)(B) of this title and enacting provisions set out as notes under this section] shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [Dec., 1977], on the basis of applications filed in or after the month in which this Act is enacted."

Section 353(f)(1) of Pub. L. 95-216 provided in part that the amendment of subsec. (u)(1)(C) by Pub. L. 95-216 is effective with respect to convictions after Dec. 31, 1977.

Nonapplicability of Amendments by Section 334 of Pub. L. 95-216 to Monthly Insurance Benefits Payable to Individuals Eligible for Monthly Periodic Benefits; Savings Provisions

Section 334(g) of Pub. L. 95-216 provided that:

"(1) The amendments made by the preceding provisions of this section [see section 334(f) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note above] shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act [subsec. (b), (c), (e), (f), or (g) of this section] to an individual—

"(A) to whom there is payable for any month within the 60-month period beginning with the month in which this Act [Dec., 1977] is enacted (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act) [section 418(b)(2) of this title]; and

"(B) who at time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g) meets the requirements of that subsection as it was in effect and being administered in January 1977.

(2) For purposes of paragraph (1)(A), an individual is eligible for a monthly periodic benefit for any month if such benefit would be payable to such individual for that month if such individual were not employed during that month and had made proper application for such benefit.

(3) If any provision of this subsection, or the application thereof to any person or circumstance, is held invalid, the remainder of this section shall not be affected thereby, but the application of this subsection to any other persons or circumstances shall also be considered invalid."

Redetermination of Widow's and Widower's Monthly Insurance Benefits for Months After December 1978

Section 336(c)(2) of Pub. L. 95-216 provided that: "In the case of an individual who was entitled for the month of December 1978 to monthly insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act [subsec. (e) or (f) of this section] to which the provisions of subsection (e)(4) or (f)(5) [subsec. (e)(4) or (f)(5) of this section] applied, the Secretary shall, if such benefits would be increased by the amendments made by this section [amending subsecs. (e)(2)(A), (3), (4), (f)(3)(A), (4), and (5) of this section] redetermine the amount of such benefits for

months after December 1978 as if such amendments had been in effect for the first month for which the provisions of section 202(e)(4) or 202(f)(5) [subsec. (e)(4) or (f)(5) of this section] became applicable."

MINIMUM MONTHLY INSURANCE BENEFITS FOR MONTHS AFTER DECEMBER 1978, FOR WIDOW OR WIDOWER AND OTHER JOINTLY ENTITLED INDIVIDUALS

Section 336(d) of Pub. L. 95-216 provided that:

Where—

(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act [this section] for December 1978 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202 [subsec. (e) or (f) of this section], and

(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 (as amended by this section) [subsec. (e) or (f) of this section] for January 1979, and

"(3) the total of benefits to which all persons are entitled under section 202 of such Act [section 202 of this title] on the basis of such wages and self-employment income for January 1979 is reduced by reason of section 203(a) of such Act as amended by this Act [section 403(a) of this title] (or would, but for the first sentence of section 203(a)(4) [section 403(a)(4) of this title], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1978 shall in no case be less after the application of this section [see section 336(c)(1) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under this section.] and such section 203(a) [section 403(a) of this title] than the amount it would have been without the application of this section."

TERMINATION OF SPECIAL 50 PAYMENTS UNDER TAX REDUCTION ACT OF 1975.

Pub. L. 95-30, title IV, § 406, May 23, 1977, 91 Stat. 156, provided that: "Notwithstanding the provisions of section 702(a) of the Tax Reduction Act of 1975 [see Pub. L. 94-12, § 702, set out as a note under this section in the main Edition], no payment shall, after the date of the enactment of this Act [May 23, 1977], be made under that section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 403, 405, 415, 416, 417, 422, 423, 424a, 425, 426, 426a, 427, 428, 433, 1320b-1, 1395i-1, 1395p, 1395s of this title; title 5 section 8332; title 30 sections 902, 922; title 38 sections 412, 422; title 45 sections 231a, 231c, 231e, 231f.

§ 403. Reduction of insurance benefits

[See main edition for text of (a) to (e)]

(f) Months to which earnings are charged

For purposes of subsection (b) of this section—

(1) The amount of an individual's excess earnings (as defined in paragraph (3) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 402(s) of this title, no part of the excess earnings of an individual shall be charged to any months (A) for which such individual was not entitled to a benefit under this subchapter, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), or (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8).

[See main edition for text of (2)]

(3) For purposes of paragraph (1) and subsection (h) of this section, an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8), multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains age 72, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable

manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

(4) For purposes of clause (E) of paragraph (1)—

[*See main edition for text of (A)*]

(B) an individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

[*See main edition for text of (5) to (7)*]

(8)(A) Whenever the Secretary pursuant to section 415(i) of this title increases benefits effective with the month of June following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be whichever of the following is the larger—

(i) the corresponding exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subparagraph (A) was made to (II) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case. For purposes of this clause (ii), the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

Whenever the Secretary determines that an exempt amount is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 415(i)(1)(A) of this title) in such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the acturial assumptions and methodology used in preparing such estimates.

[*See main edition for text of (C)*]

(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained age 65 before the close of the taxable year involved—

(i) shall be $333.33⅓ for each month of any taxable year ending after 1977 and before 1979,

(ii) shall be $375 for each month of any taxable year ending after 1978 and before 1980,

(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981,

(iv) shall be $458.33⅓ for each month of any taxable year ending after 1980 and before 1982, and

(v) shall be $500 for each month of any taxable year ending after 1981 and before 1983.

[*See main edition for text of (g)*]

(h) Report of earnings to Secretary

(1)(A) If an individual is entitled to any monthly insurance benefit under section 402 of this title during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f) of this section, in excess of the product of the applicable exempt amount as determined under subsection (f)(8) of this section times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which

such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection. The Secretary may grant a reasonable extension of time for making the report of earnings required in this paragraph if he finds that there is valid reason for a delay, but in no case may the period be extended more than three months.

[*See main edition for text of* (B), (2), (3); (i) *to* (l)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, §§ 301(a)-(c)(1), (d), 303(a), 91 Stat. 1530, 1531.)

AMENDMENT OF SUBSECTION (a) EFFECTIVE AFTER DECEMBER 1978

Sections 202 and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978, and lump-sum death payments with respect to deaths occurring after such month, subsec. (a) is amended to read as follows:

(a) Maximum benefits

(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 415(a) (1) or (4) of this title or section 415(d) of this title, as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 402 or 423 of this title for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraph (3) (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 415(i) of this title), be reduced as necessary so as not to exceed—

(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

(D) 175 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(2)(A) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be $230, $332, and $433, respectively.

(B) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 415(a)(1) of this title, with such product being rounded in the manner prescribed by section 415(a)(1)(B)(iii) of this title.

(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 415(i)(2)(D) of this title) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the following calendar year.

(D) A year shall not be counted as the year of an individual's death or eligibility for purposes of this paragraph or paragraph (7) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefits to which he was entitled during such 12 months).

(3)(A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 402(k)(2)(A) of this title) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the bases of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 415(a)(1) of this title for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 430 of this title.

(B) When two or more persons were entitled (without the application of section 402(j)(1) of this title and section 423(b) of this title) to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the

total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

(i) the amount determined under this subsection without regard to this subparagraph,

(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 415(i)(3) of this title) or a benefit increase under the provisions of section 415(i) of this title, an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this subchapter (excluding any part thereof determined under section 402(w) of this title) for the month before such effective month (including this subsection, but without the application of section 422(b) of this title, section 402(q) of this title, and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next higher multiple of $0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 402(k)(2)(A) of this title was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 402(k)(2)(A) of this title ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 402(b) or (c) of this title or as a surviving divorced spouse under section 402 (e) or (f) of this title for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 422(b) of this title. Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

(5) Notwithstanding any other provision of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

(B) such individual's primary insurance amount is increased for the following month under any provision of this subchapter,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 402(q) of this title) than the total of monthly benefits (after the application of the other provisions of this subsection and section 402(q) of this title) payable on the basis of such wages and self-employment income for such particular month.

(6) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 415(a) or (d) of this title as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 415(a) (1) or (4) of this title, or section 415(d) of this title, as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 415(a)(1) of this title for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefits base determined under section 430 of this title for the year in which that month occurs.

(7) Subject to paragraph (6), this subsection as in effect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 415 (a) or (d) of this title, as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies (before becoming eligible for such a benefit), after December 1978,

shall instead be governed by this section as in effect after December 1978.

AMENDMENT OF SUBSECTION (a) EFFECTIVE AFTER MAY 1978

Sections 204(e) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits for months after May 1978, subsec. (a) of this section (as amended by section 202 of Pub. L. 95-216) is further amended by adding at the end thereof the following new paragraph.

(8) When—

(A) one or more persons were entitled (without the application of section 402(j)(1) of this title) to monthly benefits under section 402 of this title for May 1978 on the basis of the wages and self-employment income of an individual,

(B) the benefit of at least one such person for June 1978 is increased by reason of the amendments made by section 204 of the Social Security Amendments of 1977; and

(C) the total amount of benefits to which all such persons are entitled under such section 402 of this title are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of subsection (a)(4) of this section),

then the amount of the benefit to which each such person is entitled for months after May 1978 shall be increased (after such reductions are made under this subsection) to the amount such benefits would have been if the benefit of the person or persons referred to in subparagraph (B) had not been so increased.

AMENDMENT OF SUBSECTION (f)(8)(B)(i) AND (ii) EFFECTIVE JANUARY 1, 1979

Section 353(a)(1), (a)(2), and (g) of Pub. L. 95-216 provided that, effective Jan. 1, 1979, subsec. (f)(8)(B)(i) and (ii) of this section is amended to read as follows:

(i) the corresponding exempt amount which is in effect with respect to months in the taxable year in which the determination under subparagraph (A) is made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

AMENDMENT OF SUBSECTIONS (c)(1), (d)(1), (f)(1)(B), (f)(3), (h)(1)(A), AND (j) APPLICABLE ONLY WITH RESPECT TO TAXABLE YEARS ENDING AFTER DECEMBER 31, 1981

Section 302 of Pub. L. 95-216 provided that, effective with respect to taxable years ending after Dec. 31, 1981, the following enumerated subsections of this section are amended as follows:

Subsec. (c)(1) is amended by substituting "seventy" for "seventy-two".

Subsec. (d)(1) is amended by substituting "seventy" for "seventy-two".

Subsec. (f)(1)(B) is amended by substituting "seventy" for "seventy-two".

Subsec. (f)(3) is amended by substituting "70" for "72".

Subsec. (h)(1)(A) is amended by substituting "age 70" for "the age of 72" and "age 72", respectively.

Subsec. (j) is amended by substituting "seventy years" for "seventy-two years".

AMENDMENTS

1977—Subsec. (f)(1)(E). Pub. L. 95-216, §§ 301(d), 303(a), substituted "the applicable exempt amount" for "$200 or the exempt amount" and added ", if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8)" following "as determined under paragraph (8)".

Subsec. (f)(3). Pub. L. 95-216, § 301(d), substituted "the applicable exempt amount" for "$200 or the exempt amount".

Subsec. (f)(4)(B). Pub. L. 95-216, § 301(d), substituted "the applicable exempt amount" for "$200 or the exempt amount".

Subsec. (f)(8)(A). Pub. L. 95-216, § 301(a), substituted "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year" for "a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year".

Subsec. (f)(8)(B). Pub. L. 95-216, § 301(b), substituted "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals for each month of a particular taxable year, shall each be" for "The exempt amount for each month of a particular taxable year shall be" in the provisions preceding cl. (i), substituted "the corresponding exempt amount" for "the exempt amount" in cl. (i), and, in the provisions following cl. (ii), substituted "an exempt amount" for "the exempt amount".

Subsec. (f)(8)(D). Pub. L. 95-216, § 301(c)(1), added subsec. (f)(8)(D).

Subsec. (h)(1)(A). Pub. L. 95-216, § 301(d), substituted "the applicable exempt amount" for "$200 or the exempt amount".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 301(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsecs. (f)(1)(E), (f)(3), (f)(4)(B), (f)(8)(A), (f)(8)(B), and (h)(1)(A), and enacting subsec. (f)(8)(D) of this section] shall apply with respect to taxable years ending after December 1977."

Section 303(b) of Pub. L. 95-216 provided that: "The amendment made by subsection (a) [amending subsec. (f)(1)(E) of this section] shall apply only with respect to monthly benefits payable for months after December 1977."

INCREASED EXEMPT AMOUNTS FOR INDIVIDUALS DESCRIBED IN SUBSEC. (f)(8)(D); NOTIFICATION IN 1977 TO 1981; INDIVIDUALS OTHER THAN THOSE DESCRIBED IN SUBSEC. (f)(8)(D)

Section 301(c)(2) of Pub. L. 95-216 provided that: "No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act [subsec. (f)(8)(D) of this section] (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act [subsec. (f)(8)(B) of this section] in 1977, 1978, 1979, 1980, or 1981; and section 203(f)(8)(C) of such Act [subsec. (f)(8)(C) of this section] shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) [subsec. (f)(8)(A) of this section] in 1977 from becoming effective to the extent that such new exempt amount applies to individuals other than those described in section 203(f)(8)(D) of such Act [subsec. (f)(8)(D) of this section] (as so added)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 408, 415, 423, 424a, 1382a of this title; title 10 section 1451; title 26 section 1402; title 30 section 922; title 45 sections 231a, 231q.

§ 404. Overpayments and underpayments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 909 of this title; title 30 section 923.

§ 405. Evidence, procedure, and certification for payments

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Wage records

(1) For the purposes of this subsection—

(A) The term "year" means a calendar year when used with respect to wages and a taxable year when used with respect to self-employment income.

[*See main edition for text of* (*B*) *and* (*C*)]

(D) The term "period" when used with respect to self-employment income means a taxable year and when used with respect to wages means—

(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of title 26 or regulations thereunder (or on reports filed by a State under section 418(e) of this title or regulations thereunder),

(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.

[*See main edition for text of* (*2*) *to* (*8*); (*d*) *to* (*n*)]

(o) Crediting of compensation under Railroad Retirement Act

If there is no person who would be entitled upon application therefor, to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a] or to a lump-sum payment under section 6(b) of such Act [45 U.S.C. 231e(b)], with respect to the death of an employee (as defined in such Act), then, notwithstanding section 410(a)(10) of this title, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 3(i) of such Act [45 U.S.C. 231b(i)] if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year before 1978 shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

[*See main edition for text of* (*p*) *and* (*q*)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 353(f)(2), 91 Stat. 1554.)

AMENDMENTS

1977—Subsec. (c)(1)(A). Pub. L. 95-216, § 353(f)(2)(A), struck out "(as defined in section 411(e) of this title)" following "taxable year".

Subsec. (c)(1)(D). Pub. L. 95-216, § 353(f)(2)(B), added subsec. (c)(1)(D).

Subsec. (o). Pub. L. 95-216, § 353(f)(2)(C), added "before 1978" following "calendar year".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 effective Jan. 1, 1978, see section 353(g) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 418 of this title.

§ 409. Definition of wages

For the purposes of this subchapter, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this subchapter under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any

medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

[*See main edition for text of (a) to (f)*]

(g) [*See main edition for text of (1) and (2)*]

(3) Cash remuneration paid by an employer in any calendar year to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such year by the employer to the employee for such service is less than $100. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 410(f)(5) of this title;

[*See main edition for text of (h) and (i)*]

(j) Remuneration paid by an employer in any year to an employee for service described in section 410(j)(3)(C) of this title (relating to home workers), if the cash remuneration paid in such year by the employer to the employee for such service is less than $100;

[*See main edition for text of (k) to (m)*]

(n) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(o) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 423(a) of this title and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made; or

(p) Remuneration paid by an organization exempt from income tax under section 501 of the Internal Revenue Code of 1954 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100.

[*See main edition for text of closing paragraphs*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 351(a)(1)-(3)(A), 91 Stat. 1549.)

AMENDMENTS

1977—Subsec. (g)(3). Pub. L. 95-216, § 351(a)(1), (2), substituted "year" for "quarter" wherever appearing therein and "$100" for "$50".

Subsec. (j). Pub. L. 95-216, § 351(a)(1), (2), substituted "year" for "quarter" wherever appearing therein and "$100" for "$50".

Subsec. (n). Pub. L. 95-216, § 351(a)(3)(A), struck out "or" following "such employee died".

Subsec. (o). Pub. L. 95-216, § 351(a)(3)(A), substituted "payment is made; or" for "payment is made.".

Subsec. (p). Pub. L. 95-216, § 351(a)(3)(A), added subsec. (p).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 351(d) of Pub. L. 95-216 provided that: "The amendments made by subsection (a) [amending subsecs. (g)(3), (j), and (n) to (p) of this section and section 410(a)(10), (17)(A), and (f)(4)(B) of this title] shall apply with respect to remuneration paid and services rendered after December 31, 1977. The amendments made by subsections (b) [amending section 412 of this title] and (c) [amending section 413(a)(2) of this title] shall be effective January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 413, 417, 418, 424a, 430 of this title; title 5 section 5901; title 29 section 206; title 45 sections 231, 231b, 231e.

§ 410. Definitions relating to employment

For the purposes of this subchapter—

(a) Employment

The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign subsidiary (as defined in section 3121(*l*) of the Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(*l*) of the Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

[*See main edition for text of (1) to (9)*]

(10) Service performed in the employ of—

(A) a school, college, or university, or

(B) an organization described in section 509(a)(3) of the Internal Revenue Code of 1954 if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services in its employ performed by a student referred to in section 418(c)(5) of this title are covered under the agreement be-

tween the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 418 of this title;

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;

[*See main edition for text of (11) to (16)*]

(17) Service in the employ of any organization which is performed (A) in any year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended [50 U.S.C. 781 et seq.], as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

[*See main edition for text of (18) to (20); (b) to (e)*]

(f) Agricultural labor

The term "agricultural labor" includes all service performed—

[*See main edition for text of (1) to (3)*]

(4) [*See main edition for text of (A)*]

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A) of this paragraph, but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar year in which such service is performed.

[*See main edition for text of (5)*]

The provisions of subparagraphs (A) and (B) of paragraph (4) of this subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

[*See main edition for text of (g) to (o)*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 351(a)(1), (3)(B), 91 Stat. 1549.)

AMENDMENTS

1977—Subsec. (a)(10). Pub. L. 95-216, § 351(a)(3)(B), struck out former subpar. (A), which related to service performed in the employ of any exempt organization under section 101 of Title 26, Internal Revenue Code of 1939, and designated existing provisions of former subpar. (B) as entire subsec. (a)(10) and, as so designated, redesignated cls. (i) and (ii) as subpars. (A) and (B).

Subsec. (a)(17)(A). Pub. L. 95-216, § 351(a)(1), substituted "year" for "quarter".

Subsec. (f)(4)(B). Pub. L. 95-216, § 351(a)(1), substituted "year" for "quarter".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 applicable with respect to remuneration paid and services rendered after Dec. 31, 1977, see section 351(d) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 409 of this title.

§ 411. Definitions relating to self-employment

For the purposes of this subchapter—

(a) Net earnings from self-employment

The term "net earnings from self-employment" means the gross income, as computed under chapter 1 of the Internal Revenue Code of 1939, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of the Internal Revenue Code of 1939, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

[*See main edition for text of (1) to (8)*]

(9) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary of the Treasury or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A);

(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) of the Internal Revenue Code of 1954 shall not apply; and

(11) There shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) of the Internal Revenue Code of 1954 to that partner for services actually rendered to or on behalf of the partnership to the extent that

those payments are established to be in the nature of remuneration for those services.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 410(f) of this title—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954, applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) of the Internal Revenue Code of 1954, derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954, applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) of such Code, derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600, his distributive share of income described in such section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraph (1) through (6) and paragraph (8) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g) of this section, or by a partnership of which an individual is a member on a regular basis as defined in subsection (g) of this section, but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than $1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed $1,600.

[*See main edition for text of* (b) *to* (g)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 313(a), 91 Stat. 1535.)

AMENDMENTS

1977—Subsec. (a)(11). Pub. L. 95-216 added par. (11).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 313(c) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsec. (a) of this section and section 1402 of Title 26, Internal Revenue Code] shall apply with respect to taxable years beginning after December 31, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 424a, 430, 1382a of this title; title 45 sections 231b, 231e.

§ 412. Self-employment income credited to calendar years

(a) For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year which begins before 1978 shall—

(1) in the case of a taxable year which is a calendar year, be credited equally to each quarter of such calendar year; and

(2) in the case of any other taxable year, be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

(b) For the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins after 1977 shall—

(1) in the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year, be credited to such calendar year; and

(2) in the case of any other taxable year, be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year.

For purposes of clause (2), the calendar month in which a taxable year ends shall be treated as included completely within that taxable year.

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 351(b), 91 Stat. 1549.)

AMENDMENTS

1977—Pub. L. 95-216 designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted provisions relating to crediting of self-employment income to calendar years for provisions relating to crediting of self-employment income to calendar quarters, and added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 effective Jan. 1, 1978, see section 351(d) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 409 of this title.

§ 413. Quarter and quarter of coverage

(a) Definitions

For the purposes of this subchapter—

[*See main edition for text of (1)*]

(2)(A) The term "quarters of coverage" means—

(i) for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income; and

(ii) for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 412 of this title) to an individual in a calendar year which equals the amount required for a quarter of coverage in that calendar year (as determined under subsection (d) of this section), with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title would not otherwise be met.

(B) Notwithstanding the provisions of subparagraph (A)—

(i) no quarter after the quarter in which an individual dies shall be a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to an individual in any calendar year equal to $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of the calendar year 1972, or $10,800 in the case of the calendar year 1973, or $13,200 in the case of the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 and before 1978 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967 and before 1972, or $9,000 in the case of a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a taxable year beginning after 1972 and before 1974, or $13,200 in the case of a taxable year beginning after 1973 and before 1975, or an

amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974 and before 1978, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200; (II) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more;

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;

(vi) not more than one quarter of coverage may be credited to a calendar quarter; and

(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 414(a)(3) of this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

[*See main edition for text of* (b) *and* (c)]

(d) Amount required for a quarter of coverage

(1) The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a)(2)(A)(ii) of this section shall be $250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.

(2) The Secretary shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of—

(A) the amount in effect in the calendar year in which the determination under this subsection is made, or

(B) the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the determination under this paragraph is made to the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for 1976 (as published in the Federal Register in accordance with section 415(a)(1)(D) of this title),

with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, §§ 351(c), 352(a), (b), 91 Stat. 1550, 1552.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-216, §§ 351(c), 352(a), substituted provisions relating to factors respecting definition of the term "quarters of coverage" for calendar years before 1978, subject to the provisions of subpar. (B) of this par., and for calendar years after 1977, subject to the provisions of subpar. (B) of this par., for provisions relating to factors respecting definition of the term "quarter of coverage" as a quarter in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income.

Subsec. (d). Pub. L. 95-216, § 352(b), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(2) by Pub. L. 95-216 effective Jan. 1, 1978, see section 351(d) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 409 of this title.

Section 352(c) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsec. (a)(2)(A)(ii), relating to determinations under subsec. (d) of this section of amounts for quarters of coverage, and adding subsec. (d) of this section] shall be effective January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 430, 433, 607 of this title.

§ 415. Computation of primary insurance amount

For the purposes of this subchapter—

[*See main edition for text of (a) to (c)*]

(d) Primary insurance amount under 1939 Act

(1) For purposes of column 1 of the table appearing in subsection (a) of this section, as that subsection was in effect in December 1977, an individual's primary insurance benefit shall be computed as follows:

(A) The individual's average monthly wage shall be determined as provided in subsection (b) of this section, as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2)(C) and (3) of that subsection (as so in effect) 1936 shall be used instead of 1950.

(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) of this section (as so in effect)—

(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1950 shall be divided by the number of years (hereinafter in this subparagraph referred to as the "divisor") elapsing after the year in which the individual attained age 20 and prior to 1951; and

(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1949 shall be divided by the number of years (hereinafter in this subparagraph referred to as the "divisor") elapsing after 1949 and prior to 1951.

The quotient so obtained shall be deemed to be the individual's wages credited to each of the years which were used in computing the amount of the divisor, except that—

(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the year immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the year immediately preceding the earliest year used in computing the amount of the divisor and to each year consecutively preceding that year, with any remainder less than $3,000 being credited to the year immediately preceding the earliest year to which a full $3,000 increment was credited; and

(iv) no more than $42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.

[*See main edition for text of (C)*]

(D) The individual's primary insurance benefit shall be 40 percent of the first $50 of his average monthly wage as computed under this subsection, plus 10 percent of the next $200 of his average monthly wage, increased by 1 percent for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by $1,650 (disregarding any fraction).

[*See main edition for text of (2)*]

(3) The provisions of this subsection as in effect prior to January 2, 1968, shall be applicable in the case of an individual who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 420 of this title.

(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age or disability insurance benefits or die prior to 1978.

[*See main edition for text of (e) to (h)*]

(i) Cost-of-living increases in benefits

[*See main edition for text of (1)*]

(2) [*See main edition for text of (A) to (C)*]

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is resultantly required and the percentage thereof. He shall also publish in the Federal Register at that time (along with the increased benefit amounts which shall be deemed to be the amounts appearing in sections 427 and 428 of this title) a revision of the table of benefits contained in subsection (a) of this section (as it may have been most recently revised by another law or pursuant to this paragraph); and such revised table shall be deemed to be the table appearing in such subsection (a). Such revision shall be determined as follows:

[*See main edition for text of (i) to (iv)*]

(v) If the contribution and benefit base (determined under section 430 of this title) for the calendar year in which the table of benefits is revised is lower than such base for the following calendar year, columns III, IV, and V of such table shall be extended. The

amounts on each additional line of column III shall be the amounts on the preceding line increased by $5 until in the last such line of column III the second figure is equal to, or exceeds by less than $5, one-twelfth of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised. The amount on each additional line of column IV shall be the amount on the preceding line increased by $1.00, until the amount on the last line of such column is equal to the last line of such column as determined under clause (iv) plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised. The amount in each additional line of column V shall be equal to 1.75 times the amount on the same line of column IV. Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

[*See main edition for text of* (3)]

(As amended Dec. 30, 1977, Pub. L. 95-216, title I, § 103(d), title II, § 201(d), 91 Stat. 1514, 1519.)

AMENDMENT OF SUBSECTIONS (a), (b), (c), (e), (f), AND (i) EFFECTIVE AFTER DECEMBER 1978

Sections 201 (a), (b), (c), (e), (f), (g) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978 and with respect to lump-sum death payments with respect to deaths occurring after Dec. 1978, the following subsections of this section are amended as follows:

Subsec. (a) is amended to read as follows:

(a) Primary insurance amount

(1)(A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

(i) 90 percent of the individual's average indexed monthly earnings (determined under subsection (b) of this section) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

(ii) 32 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and

(iii) 15 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii),

rounded in accordance with subsection (g) of this section, and thereafter increased as provided in subsection (i) of this section.

(B)(i) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible of such benefits), in the calendar year 1979, the amount established for purposes of clause (i) and (ii) of subparagraph (A) shall be $180 and $1,085, respectively.

(ii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the second calendar year preceding the calendar year for which the determination is made, by

(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year 1977.

(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest $1, except that any amounts so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

(C)(i) No primary insurance amount computed under subparagraph (A) may be less than—

(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of $1) to the next higher multiple of $1, or

(II) an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i),

whichever is greater. No increase under subsection (i) of this section except as provided in subsection (i)(2)(A) of this section shall apply to the dollar amount specified in subdivision (I) of this clause.

(ii) For purposes of clause (i)(II), the term "years of coverage" with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] prior to 1951 which is creditable to such individual pursuant to this subchapter, and wages deemed to be paid prior to 1951 to such individual under section 431 of this title) for years after 1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii)of this section) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 or 1974 [45 U.S.C. 228a et seq. or 231 et seq.] which

is creditable to such individual pursuant to this subchapter, and wages deemed to be paid to such individual under section 429 of this title) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e) of this section, may be counted for such year, or of not less than 25 percent of the maximum amount which could be so counted for such year (in the case of a year after 1977) if section 430 of this title as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.

(D) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b)(3) of this section in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average of the total wages (as described in subparagraph (B)(ii)(I)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the average of the total wages (as so described) for each calendar year after 1950.

(2)(A) A year shall not be counted as the year of an individual's death or eligibility for purposes of this subsection or subsection (i) of this section in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit or benefits to which he was entitled during such 12 months).

(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

(i) the primary insurance amount upon which such disability insurance benefit was based, increased by the amount of each general benefit increase (as defined in subsection (i)(3) of this section), and each increase provided under subsection (i)(2) of this section, that would have applied to such primary insurance amount had the individual remained entitled to such disability insurance benefit until the month in which he became so entitled or reentitled or died, or

(ii) the amount computed under paragraph (1)(C).

(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of such individual's subsequent entitlement to old-age insurance benefits or to a disability insurance benefit based upon a subsequent period of disability, or because of such individual's death), the primary insurance amount so computed may in no case be less than the primary insurance amount with respect to which such former disability insurance benefit was most recently determined.

(3)(A) Paragraph (1) applies only to an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

(i) becomes eligible for such a benefit,

(ii) becomes eligible for a disability insurance benefit, or

(iii) dies,

and (except for subparagraph (C)(i)(II) thereof) it applies to every such individual except to the extent otherwise provided by paragraph (4).

(B) For purposes of this subchapter, an individual is deemed to be eligible—

(i) for old-age insurance benefits, for months beginning with the month in which he attains age 62, or

(ii) for disability insurance benefits, for months beginning with the month in which his period of disability began as provided under section 416(i)(2)(C) of this title,

except as provided in paragraph (2)(A) in cases where fewer than 12 months have elapsed since the termination of a prior period of disability.

(4) Paragraph (1) (except for subparagraph (C)(i)(II) thereof) does not apply to the computation or recomputation of a primary insurance amount for—

(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

(B) an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recommendation would be made the individual's primary insurance amount would be greater if computed or recomputed—

(i) under section 415(a) of this title as in effect in December 1978, for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1984, or

(ii) as provided by section 415(d) of this title, in the case of an individual to whom such section applies.

In determining whether an individual's primary insurance amount would be greater if computed or recomputed as provided in subparagraph (B), (I) the table of benefits in effect in December 1978 shall be applied without regard to any increases in that table which may become effective (in accordance with subsection (i)(4) of this section) for years after 1978 (subject to clause (iii) of subsection (i)(2)(A) of this

section but without regard to clauses (iv) and (v) thereof) and (II) such individual's average monthly wage shall be computed as provided by subsection (b)(4) of this section.

(5) For purposes of computing the primary insurance amount (after December 1978) of an individual to whom paragraph (1) does not apply (other than an individual described in paragraph (4)(B)), this section as in effect in December 1978 shall remain in effect, except that, effective for January 1979, the dollar amount specified in paragraph (3) of this subsection shall be increased to $11.50. The table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) of this section for each year after 1978.

Subsec. (b) is amended to read as follows:

(b) Average indexed monthly earnings; average monthly wage

(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

(B) the number of months in those years.

(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

(B) For purposes of this subsection with respect to any individual—

(i) the term "benefit computation years" means those computation base years, equal in number to the number determined under subparagraph (A), for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

(ii) the term "computation base years" means the calendar years after 1950 and before—

(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 402(j)(1) of this title or otherwise) the first month of that entitlement; or

(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

(iii) the term "number of elapsed years" means (except as otherwise provided by section 104(j)(2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier (but after 1960), the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

(ii) the quotient obtained by dividing—

(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the second calendar year (after 1976) preceding the earliest of the year of the individual's death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility, but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the computation base year for which the determination is made.

(B) Wages paid in or self-employment income credited to an individual's computation base year which—

(i) occurs after the second calendar year specified in subparagraph (A)(ii)(I), or

(ii) is a year treated under subsection (f)(2)(C) of this section as though it were the last year of the period specified in paragraph (2)(B)(ii),

shall be available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under subsection (a) or (d) of this section as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a)(4)(B) of this section, this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2)(C) (as then in effect) shall be deemed to provide that 'computation base years' include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a)(3)(B) of this section as

in effect in January 1979) for an old-age or disability insurance benefit, or, if earlier, the year in which he died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.

Subsec. (c) is amended to read as follows:

(c) Application of prior provisions in certain cases

This subsection as in effect in December 1978 shall remain in effect with respect to an individual to whom subsection (a)(1) of this section does not apply by reason of the individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979.

Subsec. (e)(1) is amended by substituting "an individual's average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage," for "an individual's average monthly wage" and by substituting "effective (before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A) of this section) of (A)" for "effective of (A)".

Subsec. (e)(2) is amended by substituting "an individual's average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage," for "an individual's average monthly wage".

Subsec. (f)(2) is amended to read as follows:

(2)(A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance account for that year.

(B) For the purpose of applying subparagraph (A) of subsection (a)(1) of this section to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts established by subsection (a)(1)(B) of this section for purposes of clauses (i) and (ii) of subsection (a)(1)(A) of this section, the amounts so established that were (or, in the case of an individual described in subsection (a)(4)(B) of this section, would have been) used in the computation of such individual's primary insurance amount prior to the application of this subsection.

(C) A recomputation of any individual's primary insurance amount under this paragraph shall be made as provided in subsection (a)(1) of this section as though the year with respect to which it is made is the last year of the period specified in subsection (b)(2)(B)(ii) of this section; and subsection (b)(3)(A) of this section shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.

(D) A recomputation under this paragraph with respect to any year shall be effective—

(i) in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or

(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.

Subsec. (f)(3) is repealed.

Subsec. (f)(4) is amended to read as follows:

(4) A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least $1.

Subsec. (f) is amended by adding new pars. (7) and (8) reading as follows:

(7) This subsection as in effect in December 1978 shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) of this section as in effect (without regard to the table in subsection (a) of this section) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) of this section (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B) of this section as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age or disability insurance benefit or died, or for any year thereafter.

(8) The Secretary shall recompute the primary insurance amounts applicable to beneficiaries whose benefits are based on a primary insurance amount which was computed under subsection (a)(3) of this section effective prior to January 1979, or would have been so computed if the dollar amount specified therein were $11.50. Such recomputation shall be effective January 1979, and shall include the effect of the increase in the dollar amount provided by subsection (a)(1)(C)(i)(II) of this section. Such primary insurance amount shall be deemed to be provided under such section for purposes of subsection (i) of this section.

Subsec. (i)(20(A)(ii) is amended to read as follows:

(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

(I) the benefit amount to which individuals are entitled for that month under section 427 or 428 of this title,

(II) the primary insurance amount of each other individual on which benefit entitlement is based under this subchapter (including a primary insurance amount determined under

subsection (a)(1)(C)(i)(I) of this section, but subject to the provisions of such subsection (a)(1)(C)(i) of this section and clauses (iv) and (v) of this subparagraph), and

(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 403 of this title (and such total shall be increased, unless otherwise so increased under another provision of this subchapter, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) of this section as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 403 of this title as in effect in December 1978, except as provided by section 403(a)(6) and (7) of this title as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B); and any amount so increased that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i)(II) of subsection (a)(1) of this section shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagraph (D)).

Subsec. (i)(2)(A) is amended by adding new cls. (iii), (iv), and (v) reading as follows:

(iii) In the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which there occurs an increase provided under clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this subchapter and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I) of this section, subject to the provisions of subsection (a)(1)(C)(i) of this section and clauses (iv) and (v) of this subparagraph) by the amount of that increase and subsequent applicable increases, but only with respect to benefits payable for months after May of that year.

(iv)(I) In the case of an individual who is entitled to an old-age insurance benefit that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I) of this section, such primary insurance amount shall not be increased under this subsection for any year before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 403 of this title relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

(II) In the case of an individual who is entitled to an insurance benefit under subsection (e) or (f) of section 402 of this title that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I) of this section, such primary insurance amount shall not be increased under this subsection for any year (except as provided in subdivision (III)) before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 403 of this title relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

(III) Any increase under this subsection which would otherwise be applied to a primary insurance amount except for the provisions of subdivision (II) of this clause, shall apply to such primary insurance amount if, during any month of the year in which the increase occurs, any individual is entitled to a benefit under subsection (d), (g), or (h) of section 402 of this title based on such primary insurance amount, and such primary insurance amount is based upon the wages and self-employment income of a deceased individual.

(IV) No primary insurance amount determined under subsection (a)(1)(C)(i)(I) of this section shall be increased under this subsection for any year during which no individual was entitled to any benefit based thereon under section 402 or 423 of this title for any month of such year.

(V) In any case in which an increase under this subsection which occurs during any year applies to a primary insurance amount determined under subsection (a)(1)(C)(i)(I) of this section, and such an increase occurring in a later year does not apply to such primary insurance amount on account of the provisions of this clause, any such increase which occurs in a later year which is applicable to such primary insurance amount shall be based upon such primary insurance amount as previously increased under this subsection.

(v) Notwithstanding clause (iv), no primary insurance amount shall be less than that provided under section 415(a)(1) of this title without regard to subparagraph (C)(i)(I) thereof, as subsequently increased by applicable increases under this section.

Subsec. (i)(2)(D) is amended by striking all that follows the first sentence and inserting in lieu thereof the following: "He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection

based on the dollar amount specified in subparagraph (C)(i)(II) of subsection (a)(1) of this section (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C)(i)(II) under this subsection), or specified in subsection (a)(3) of this section as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 403(a) of this title except for paragraph (3)(B) thereof (or paragraph (2) thereof as in effect prior to 1979))."

Subsec. (i) is amended by adding a new par. (4) reading as follows:

(4) This subsection as in effect in December 1978 shall continue to apply to subsections (a) and (d) of this section, as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a) of this section, as in effect after December 1978, does not apply (including an individual to whom subsection (a) of this section does not apply in any year by reason of paragraph (4)(B) of that subsection (but the application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a) of this section, as in effect in December 1978, as required by paragraph (2)(D) of this subsection as then in effect.

REFERENCES IN TEXT

The Social Security Amendments of 1967, referred to in subsec. (d)(3), means Pub. L. 90-248, Jan. 2, 1968, 81 Stat. 821. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1305 of this title and Tables.

AMENDMENTS

1977—Subsec. (d)(1)(A). Pub. L. 95-216, § 201(d)(1), added provisions in subsec. (d)(1)(A) and the preceding introductory provision directing that the existing references to subsecs. (a) and (b) of this section be deemed reference to such subsecs. (a) and (b) as they were in effect in Dec. 1977.

Subsec. (d)(1)(B). Pub. L. 95-216, § 201(d)(1), made a parenthetical insertion which limited the existing references to subpars. (B) and (C) of subsec. (b)(2) of this section to those provisions as they had been in effect in Dec. 1977, and introduced a simplified method, using the concept of a divisor and a quotient, for computing the primary insurance amounts of workers age 21 after 1936 and before 1951 when wages before 1951 are included in the computations.

Subsec. (d)(1)(D). Pub. L. 95-216, § 201(d)(2), substituted "40 percent" for "45.6 per centum" and "plus 10 percent of the next $200 of his average monthly wage, increased by 1 percent for each increment year" for "plus 11.4 per centum of the next $200 of such average monthly wage" in the existing provisions and added provisions that the number of increment years in the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by $1,650 (disregarding any fraction).

Subsec. (d)(3). Pub. L. 95-216, § 201(d)(3), struck out requirement that when wages prior to 1951 are included in computing the average monthly wages of an individual who attains age 21 after 1936 and prior to 1951, the present law computation provisions in effect before the Social Security Amendments of 1967 must be used.

Subsec. (d)(4). Pub. L. 95-216, § 201(d)(4), added subsec. (d)(4).

Subsec. (i)(2)(D)(v). Pub. L. 95-216, § 103(d), substituted in cl. (v) "is equal to, or exceeds by less than $5, one-twelfth of the new contribution and benefit base" for "is equal to one-twelfth of the new contribution and benefit base" and "plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised" for "plus 20 percent of one-twelfth of the excess of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised (as determined under section 430 of this title) over such base for the calendar year in which the table of benefits is revised" in the third sentence.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 206 of Pub. L. 95-216 provided in part that the amendments made by section 201(d) of Pub. L. 95-216 [amending subsec. (d) of this section] shall be effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies after Dec. 1977.

Amendment of subsec. (i)(2)(D) by section 103(d) of Pub. L. 95-216 [which amended the second and third sentences of cl. (v) of subsec. (i)(2)(D)] to be applicable with respect to remuneration paid or received, and taxable years beginning after 1977, see section 104 of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 1401 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 417, 423, 427, 428, 430, 431, 433, 1382f, 1395r of this title; title 26 section 415; title 45 sections 231b, 231c.

§ 416. Additional definitions

AMENDMENT OF SUBSEC. (d) EFFECTIVE AFTER DECEMBER 1978

Pub. L. 95-216, title III, § 337(a), (c), Dec. 20, 1977, 91 Stat. 1548, provided that, effective with respect to monthly benefits payable under this subchapter for months after Dec. 1978, and, in the case of individuals who are not entitled to benefits of the type involved for Dec. 1978, only on the basis of applications filed on or after Jan. 1, 1979, subsec. (d) of this section is amended by striking out "20 years" in pars. (1) and (2) and inserting in lieu thereof in each instance "10 years".

§ 417. Benefits for veterans

AMENDMENT OF SUBSEC. (b)(1) EFFECTIVE AFTER DECEMBER 1978

Pub. L. 95-216, title II, §§ 205(c), 206, Dec. 20, 1977, 91 Stat. 1529, provided that, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978 and with respect to lump-sum death payments with respect to deaths oc-

curring after such month, subsec. (b)(1) of this section is amended by inserting "as in effect in December 1978" after "section 415(c) of this title" each place it appears, and after "section 415(d) of this title".

§ 418. Voluntary agreements for coverage of State and local employees

[*See main edition for text of (a) and (b)*]

(c) Services covered

[*See main edition for text of (1) to (7)*]

(8) Notwithstanding any other provision of this section, the agreement with any State entered into under this section may at the option of the State be modified on or after January 1, 1968, to exclude service performed by election officials or election workers if the remuneration paid in a calendar year for such service is less than $100. Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed after an effective date, specified in such modification, which shall not be earlier than the last day of the calendar quarter in which the modification is mailed or delivered by other means to the Secretary.

(d) Positions covered by retirement systems

[*See main edition for text of (1) to (5)*]

(6) [*See main edition for text of (A) and (B)*]

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after August 1, 1956, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

[*See main edition for text of (D) to (G), (7) and (8); (e) and (f)*]

(g) Termination of agreement

(1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar year specified in the notice, its agreement with the Secretary of Health, Education, and Welfare either—

[*See main edition for text of (A) and (B), (2) and (3); (h) to (l)*]

(m) Wisconsin retirement fund

(1) Notwithstanding paragraph (1) of subsection (d) of this section, the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund or any successor system.

[*See main edition for text of (2) to (4); (n) and (o)*]

(p) Policemen and firemen in certain States

(1) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Mississippi, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956, may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, be modified pursuant to subsection (c)(4) of this section to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d)(3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desire, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

[*See main edition for text of* (2)]

(q) Time limitation on assessments

[*See main edition for text of* (1) *to* (3)]

(4) An assessment of an amount due made by the Secretary after the expiration of the period specified in paragraph (2) of this subsection shall nevertheless be deemed to have been made within such period if—

[*See main edition for text of* (A)]

(B) within the 365 days immediately preceding the expiration of such period (or extended period) the State pays to the Secretary of the Treasury less than the correct amount due under an agreement pursuant to this section with respect to wages paid to individuals in a calendar year as members of a coverage group, and the Secretary of Health, Education, and Welfare makes the assessment, adjusted to take into account the amount paid by the State, no later than the 365th day after the day the State made payment to the Secretary of the Treasury; but the Secretary of Health, Education, and Welfare shall make such assessment only with respect to the wages paid to such individuals in such calendar year as members of such coverage group; or

[*See main edition for text of* (C) *and* (5)]

(6) The Secretary shall accept wage reports filed by a State under an agreement pursuant to this section or regulations of the Secretary thereunder, after the expiration of the period specified in paragraph (2) of this subsection or such period as extended pursuant to paragraph (4) of this subsection, with respect to wages which are paid to individuals performing services as employees in a coverage group included in the agreement and for payment in connection with which the State is not liable by reason of paragraph (2) of this subsection, only if the State—

[*See main edition for text of* (A)]

(B) agrees in writing with the Secretary of Health, Education, and Welfare to an extension of the period specified in paragraph (2) of this subsection with respect to wages paid to all individuals performing services as employees in such coverage group in the period or periods designated by the state in such wage reports as the period or periods in which such wages were paid. If the State so agrees, the period specified in paragraph (2) of this subsection, or such period as extended pursuant to paragraph (4) of this subsection, shall be extended until such time as the Secretary notifies the State that such wage reports have been accepted.

[*See main edition for text of* (7)]

(r) Time limitation on credits and refunds

(1) No credit or refund of an overpayment by a State under an agreement pursuant to this section with respect to wages paid or alleged to have been paid to an individual as a member of a coverage group in a calendar year shall be allowed after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which such wages were paid or alleged to have been paid, or

(B) three years after the date the payment which included such overpayment became due under such agreement with respect to the wages paid or alleged to have been paid to such individual as a member of such coverage group in such calendar year, or

[*See main edition for text of* (C) *and* (D)]

unless prior to the expiration of such period a claim for such credit or refund is filed with the Secretary of Health, Education, and Welfare by the State.

[*See main edition for text of* (2); (s) *to* (u)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, §§ 319-321, 353(b), 91 Stat. 1541, 1553.)

AMENDMENTS

1977—Subsec. (c)(8). Pub. L. 95-216, § 353(b)(1), substituted "year" for "quarter" and "$100" for "$50".

Subsec. (d)(6)(C). Pub. L. 95-216, § 320, added reference to New Jersey.

Subsec. (g)(1). Pub. L. 95-216, § 353(b)(2), substituted "year" for "quarter".

Subsec. (m)(1). Pub. L. 95-216, § 321, added "or any successor system" following "Wisconsin retirement fund".

Subsec. (p)(1). Pub. L. 95-216, § 319, added reference to Mississippi.

Subsec. (q)(4)(B). Pub. L. 95-216, § 353(b)(3), substituted references to calendar years for references to calendar quarters wherever appearing therein.

Subsec. (q)(6)(B). Pub. L. 95-216, § 353(b)(4), substituted "period or periods designated by the State in such wage reports as the period or" for "calendar quarters designated by the State in such wage reports as the".

Subsec. (r)(1). Pub. L. 95-216, § 353(b)(5), in material preceding cl. (A) and in cl. (B) substituted "year" for "quarter", and in cl. (A) struck out "in which occurred the calendar quarter" following "year".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 353(g) of Pub. L. 95-216 provided that: "The amendments made by subsection (b) of this section [amending subsecs. (c)(8), (q)(4)(B), (6)(B) and (r)(1) of this section] shall apply with respect to remuneration paid after December 31, 1977, except that the amendment made by subsection (b)(2) [amending subsec. (g)(1) of this section] shall apply with respect to notices submitted by the States to the Secretary after the date of the enactment of this Act [Dec. 20, 1977]. The amendments made by subsections (d) [amending section 429(a) of this title] and (f)(2) [amending section 405(c)(1) of this title] shall be effective January 1, 1978. Except as otherwise specifically provided, the remaining amendments made by this section [amending sections 403(f)(8)(B)(i), (ii), 424a(f)(2), and 430(b) of this title] shall be effective January 1, 1979."

MODIFICATION OF AGREEMENT WITH ILLINOIS TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN

Section 318 of Pub. L. 95-216 provided that:

"(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section

218 [subsec. (d)(1) and (3) of this section, respectively], the agreement with the State of Illinois heretofore entered into pursuant to such section 218 [this section] may, at any time prior to January 1, 1979, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed in policemen's or firemen's positions covered by the Illinois Municipal Retirement Fund on the date of the enactment of this Act [Dec. 20, 1977] if the State of Illinois has at any time prior to the date of the enactment of this Act [Dec. 20, 1977] paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section]. For purposes of this section, a retirement system which covers positions of policemen or firemen shall, if the State of Illinois so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, as the case may be.

"(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification in the agreement with the State of Illinois under subsection (a) of this section, to the extent that it involves services performed by a policeman or fireman in positions covered under the Illinois Municipal Retirement Fund, shall be made effective with respect to—

"(1) all services performed by policemen or firemen, in positions to which the modification relates, on or after the date of the enactment of this Act [Dec. 20, 1977]; and

"(2) all services performed by such individuals in such positions before such date of enactment [Dec. 20, 1977] with respect to which the State of Illinois has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (2)(1) of this section] at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

"(A) no refund of the sums so paid has been obtained, or

"(B) a refund of part or all of the sums so paid has been obtained but the State of Illinois repays to the Secretary of the Treasury the amount of such refund within 90 days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 405, 405a, 409, 410, 411 of this title; title 26 sections 1402, 3121, 6413, 6511.

§ 423. Disability insurance benefit payments

[*See main edition for text of* (a) *to* (c)]

(d) Disability

[*See main edition for text of* (1) *to* (3)]

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 403(f)(8) of this title which is applicable to individuals described in subparagraph (D) thereof. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 422(c) of this title, be found not to be disabled.

[*See main edition for text of* (5)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 335, 91 Stat. 1547.)

AMENDMENTS

1977—Subsec. (d)(4). Pub. L. 95-216 added provisions relating to activities of blind individuals.

§ 424a. Reduction of disability benefits through receipt of workmen's compensation

(a) Conditions for reduction; computation

If for any month prior to the month in which an individual attains the age of 62—

(1) such individual is entitled to benefits under section 423 of this title, and

(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State, to periodic benefits for a total or partial disability (whether or not permanent) and the Secretary has, in a prior month, received notice of such entitlement for such month,

the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) such total of benefits under sections 423 and 402 of this title for such month, and

(4) such periodic benefits payable (and actually paid) for such month to such individual under the workmen's compensation law or plan,

exceeds the higher of—

(5) 80 percentum of his "average current earnings", or

(6) the total of such individual's disability insurance benefits under section 423 of this title for such month and of any monthly insurance benefits under section 402 of this title for such month based on his wages and self-employment income, prior to reduction under this section.

In no case shall the reduction in the total of such benefits under sections 423 and 402 of this title for a month (in a continuous period of months) reduce such total below the sum of—

(7) the total of the benefits under sections 423 and 402 of this title, after reduction under this section, with respect to all persons entitled to benefits on the basis of such individual's wages and self-employment income for such month which were determined for such individual and such persons for the first month for which reduction under this section was made (or which would have been so determined if all of them had been so entitled in such first month), and

(8) any increase in such benefits with respect to such individual and such persons, before reduction under this section, which is made effective for months after the first month for which reduction under this section is made.

For purposes of clause (5), an individual's average current earnings means the largest of (A) the average monthly wage used for purposes of computing his benefits under section 423 of this title, (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest, or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 423(d) of this title) and the five years preceding that year.

[*See main edition for text of (b) to (g)*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 353(c)(1), 91 Stat. 1553.)

AMENDMENT OF SUBSECTION (a) EFFECTIVE AFTER DECEMBER 1978

Sections 205(d) and 206 of Pub. L. 95-216 provided that, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978 and with respect to lump-sum death payments with respect to deaths occurring after Dec. 1978, subsec. (a) of this section is amended by inserting "(determined under section 415(b) of this title as in effect prior to January 1979)" after "(A) the average monthly wage" in the sentence immediately following par. (8).

AMENDMENT OF SUBSECTION (f)(2) EFFECTIVE JANUARY 1, 1979

Section 353(c)(2) and (g) of Pub. L. 95-216 provided that, effective Jan. 1, 1979, subsec. (f)(2) of this section is amended to read as follows:

(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a) of this section) shall be deemed to be the product of—

(A) his average current earnings as initially determined under subsection (a) of this section;

(B) the ratio of (i) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which such redetermination is made to (ii) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and

(C) in any case in which the reduction was first computed before 1978, the ratio of (i) the average of the taxable wages reported to the Secretary for the first calendar quarter of 1977 to (ii) the average of the taxable wages reported to the Secretary for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).

Any amount determined under this paragraph which is not a multiple of $1 shall be reduced to the next lower multiple of $1.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216, § 353(c)(1), struck out provisions following par. (8) under which the Secretary, in cases where an individual's wages and self-employment income reported to the Secretary for a calendar year reached the limitations specified in sections 409(a) and 411(b)(1) of this title, was required to estimate the total of such wages and self-employment income on the basis of such information as might be available to him indicating the extent (if any) by which the wages and self-employment income exceeded limitations.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 353(c)(1) of Pub. L. 95-216 provided in part that the amendment by section 353(c)(1) of Pub. L. 95-216 [which struck out requirement in the provisons following par. (8) of subsec. (a) of this section that the Secretary estimate the total of wages and self-employment income in those cases where an individual's reported wages and self-employment income for the calendar year reached the limitations specified in sections 409(a) and 411(b)(1) of this title] is effective with respect to the estimates for calendar years beginning after Dec. 31, 1977.

§ 426. Entitlement to hospital insurance benefits

[*See main edition for text of (a) to (g)*]

(h) Benefits for widows and widowers

(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

[*See main edition for text of (A)*]

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 402(e)(1) of this title and the phrase "before he attained age 60" in the matter following subparagraph (F) of section 402(f)(1) of this title shall each be deemed to read "based on a disability".

[*See main edition for text of (2) and (3)*]

(4) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of an individual described in clause (iii) of subsection (b)(2)(A) of this title, the entitlement of such individual to widow's or widower's insurance benefits under section 402 (e) or (f) of this title by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without

regard to the provisions of section 402(j)(4) of this title.

[*See main edition for text of* (i)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, §§ 332(a)(3), 334(d)(4)(B), 91 Stat. 1543, 1546.)

AMENDMENTS

1977—Subsec. (h)(1)(B). Pub. L. 95-216, § 334(d)(4)(B), substituted "subparagraph (F) of section 402(f)(1)" for "subparagraph (G) of section 402(f)(1)".

Subsec. (h)(4). Pub. L. 95-216, § 332(a)(3), added subsec. (h)(4).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (h)(4) by Pub. L. 95-216 effective with respect to monthly insurance benefits under this subchapter to which an individual becomes entitled on the basis of an application filed on or after Jan. 1, 1978, see section 332(b) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 402 of this title.

Amendment of subsec. (h)(1)(B) by Pub. L. 95-216 applicable with respect to monthly insurance benefits payable under this subchapter for months beginning with Dec., 1977, on the basis of applications filed in or after Dec., 1977, see section 334(f) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 426a, 433, 1320b-1, 1395c, 1395e, 1395f, 1395h, 1395i-1, 1395i-2, 1395p, 1395u, 1395ff of this title; title 45 sections 231f, 231r.

§ 428. Benefits at age 72 for certain uninsured individuals

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 415, 662, 1320b-1 of this title; title 48 section 1421q.

§ 429. Benefits in case of members of the uniformed services

(a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual, if he was paid wages for service as a member of a uniformed service (as defined in section 410(m) of this title) which was included in the term "employment" as defined in section 410(a) of this title as a result of the provisions of section 410(*l*) of this title, shall be deemed to have been paid—

(1) in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of $300, and

(2) in each calendar year occurring after 1977 in which he was paid such wages, additional wages of $100 for each $300 of such wages, up to a maximum of $1,200 of additional wages for any calendar year.

[*See main edition for text of* (b)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 353(d), 91 Stat. 1554.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216 substituted provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1956 and before 1978 and provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1977, for provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1956.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 effective Jan. 1, 1978, see section 353(g) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 418 of this title.

§ 430. Adjustment of the contribution and benefit base

(a) Determination and publication by Secretary in Federal Register subsequent to cost-of-living benefit increase; effective date

Whenever the Secretary pursuant to section 415(i) of this title increases benefits effective with the June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) or (c) of this section which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) Determination of amount

The amount of such contribution and benefit base shall (subject to subsection (c) of this section) be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

[*See main edition for text of* (1) *and* (2)]

with such product, if not a multiple of $300, being rounded to the next higher multiple of $300 where such product is a multiple of $150 but not of $300 and to the nearest multiple of $300 in any other case. For purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subsection (a) of this section prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

(c) Amount of base for period prior to initial cost-of-living benefit increase

For purposes of this section, and for purposes of determining wages and self-employment income under sections 409, 411, 413, and 415 of this title and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1954, (1) the "contribution and benefit base"

with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 415(i) of this title becomes effective shall be $13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section, and (2) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning)—

(A) in 1978 shall be $17,700,

(B) in 1979 shall be $22,900,

(C) in 1980 shall be $25,900, and

(D) in 1981 shall be $29,700.

For purposes of determining under subsection (b) of this section the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) of this section and to be the amount determined (with respect to the years involved) under that subsection. For purposes of determining employer tax liability under section 3221(a) of the Internal Revenue Code of 1954, for purposes of determining the portion of the employee representative tax liability under section 3211(a) of such Code which results from the application of the 9.5 percent rate specified therein, and for purposes of computing average monthly compensation under section 231b(j) of title 45, except with respect to annuity amounts determined under section 231b(a) or (f)(3) of title 45, clause (2) and the preceding sentence of this subsection shall be disregarded.

(d) Determinations for calendar years after 1976 for purposes of retirement benefit plans

Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 1322(b)(3)(B) of title 29, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.

(As amended Dec. 20, 1977, Pub. L. 95-216, title I, § 103(a)-(c)(1), 91 Stat. 1513, 1514.)

AMENDMENT OF SUBSECTION (b) EFFECTIVE JANUARY 1, 1979

Section 353(e) and (g) of Pub. L. 95-216 provided that, effective Jan. 1, 1979, subsec. (b) of this section is amended by striking out the last sentence and by amending pars. (1) and (2) to read as follows:

(1) the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) of this section is made, and

(2) the ratio of (A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subsection (a) of this section is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a) of this section,

REFERENCES IN TEXT

This section "as in effect immediately prior to the enactment of the Social Security Amendments of 1977", referred to in subsec. (d), mean this section as in effect prior to the enactment of Pub. L. 95-216 which was approved Dec. 20, 1977.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216 § 103(a)(1), substituted "determined under subsection (b) or (c) of this section" for "determined under subsection (b) of this section".

Subsec. (b). Pub. L. 95-216, § 103(a)(2), in the provisions preceding par. (1), substituted "shall (subject to subsection (c) of this section) be the amount" for "shall be the amount".

Subsec. (c). Pub. L. 95-216, § 103(b), designated existing provisions as introductory material and cl. (1) and added cl. (2) and closing material.

Subsec. (d). Pub. L. 95-216, § 103(c)(1), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 103(a) and (b) of Pub. L. 95-216 [amending subsecs. (a), (c), and the provisions preceding par. (1) of subsec. (b) of this section] applicable with respect to remunerations paid or received, and taxable years beginning, after 1977, see section 104 of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 1401 of Title 26, Internal Revenue Code.

Section 103(c)(2) of Pub. L. 95-216 provided that: "The amendment made by paragraph (1) [adding subsec. (d) of this section] shall apply with respect to plan terminations occurring after the date of the enactment of this Act [Dec. 20, 1977]."

SOCIAL SECURITY CONTRIBUTION AND BENEFIT BASE FOR 1978

By notice of the Secretary of Health, Education, and Welfare, Oct. 31, 1977, 42 F.R. 57754, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1978 would be $17,700.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 409, 411, 413, 415 of this title; title 26 section 1402, 6413, 6654; title 29 section 1322.

§ 433. International agreements

(a) Purpose of agreement

The President is authorized (subject to the succeeding provisions of this section) to enter into agreements establishing totalization arrangements between the social security system established by this subchapter and the social security system of any foreign country, for the purposes of establishing entitlement to and the

amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this subchapter and the social security system of such foreign country.

(b) Definitions

For the purposes of this section—

(1) the term "social security system" means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability; and

(2) the term "period of coverage" means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this subchapter or under the social security system of a country which is a party to an agreement entered into under this section.

(c) Crediting periods of coverage; conditions of payment of benefits

(1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 413 of this title and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this subchapter and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this subchapter;

(B)(i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this subchapter or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this subchapter or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

(C) that where an individual's periods of coverage are combined, the benefit amount payable under this subchapter shall be based on the proportion of such individual's periods of coverage which was completed under this subchapter.

(2) Any such agreement may provide that—

(A) an individual who is entitled to cash benefits under this subchapter shall, notwithstanding the provisions of section 402(t) of this title receive such benefits while he resides in a foreign country which is a party to such agreement; and

(B) the benefit paid by the United States to an individual who legally resides in the United States shall, if less when added to the benefit paid by such foreign country than the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 415(a) of this title in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 415(a)(1)(c)(i)(I) of this title in the case of an individual becoming eligible for such benefit on or after that date, be increased so that the total of the two benefits is equal to the benefit amount which would be so payable.

(3) Section 426 of this title shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

(4) Any such agreement may contain other provisions which are not inconsistent with the other provisions of this subchapter and which the President deems appropriate to carry out the purposes of this section.

(d) Regulations

The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

(e) Reports to Congress; effective date of agreements

(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress together with a report on the estimated number of individuals who will be affected by the agreement and the effect of the agreement on the estimated income and expenditures of the programs established by this Chapter.

(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of the period (following the date on which the agreement is transmitted in accordance with paragraph (1)) during which each House of the Congress has been in session on each of 90 days; except that such agreement shall not become effective if, during such period, either House of the Congress adopts a resolution of disapproval of the agreement.

(Aug. 14, 1935, c. 531, title II, § 233, as added Dec. 20, 1977, Pub. L. 95-216, title III, § 317(a), 91 Stat. 1538.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 sections 1401, 3101, 3111.

SUBCHAPTER IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1301, 1306a, 6862 of this title; title 7 section 2015; title 20 section 241d-11; title 29 section 981; title 31 section 665.

Part A—Aid to Families With Dependent Children

Part Referred to in Other Sections

This part is referred to in sections 405, 428, 603a, 622, 644, 652, 653, 654, 657, 1306, 1309, 1311, 1315, 1316, 1318, 1319, 1395v, 1396a, 1396b, 1396d, 1397a, 1397b, 1397c, 3195, 5103 of this title; title 7 section 2020; title 26 sections 50B, 3304; title 29 sections 49b, 968; title 40 App. section 202.

§ 602. State plans for aid and services to needy families with children

(a) Contents

A State plan for aid and services to needy families with children must

[*See main edition for text of (1) to (26)*]

(27) provide, that the State has in effect a plan approved under part D of this subchapter and operate a child support program in conformity with such plan; (28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D of this subchapter, and retained by the State under section 657 of this title, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part; and (29) effective October 1, 1979, provided that wage information available from the Social Security Administration under the provisions of section 611 of this title, and wage information available (under the provisions of section 3304(a)(16) of title 26) from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws.

[*See main edition for text of (b) and (c)*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title IV, § 403(c), 91 Stat. 1561.)

Amendments

1977—Subsec. (a)(29). Pub. L. 95-216 added subsec. (a)(29).

Effective Date of 1977 Amendment

Section 403(d) of Pub. L. 95-216 provided that: "The amendments made by this section [enacting section 611 of this title, and amending subsec. (a) of this section and section 3304(a)(16) and (17) of Title 26, Internal Revenue Code] shall be effective on the date of the enactment of this Act [Dec. 20, 1977]."

Disregard of Matching Funds Requirements in Use of Funds Appropriated Pursuant to Tax Reduction and Simplification Act of 1977

Pub. L. 95-30, title IV, § 401(a), May 23, 1977, 91 Stat. 154, provided that: "The Secretary of Health, Education, and Welfare and the Secretary of Labor are authorized to carry out the work incentive program under title IV of the Social Security Act [this subchapter] from the sums appropriated pursuant to this Act [Pub. L. 95-30] without regard to the requirements for non-Federal matching funds contained in sections 402(a)(19)(C) [subsec. (a)(19)(C) of this section], 402(a)(19)(G) [subsec. (a)(19)(G) of this section], 403(a)(3)(A) [section 603(a)(3)(A) of this title], 403(d) [section 603(d) of this title], and 435 [section 635 of this title] of the Social Security Act."

Section Referred to in Other Sections

This section is referred to in sections 603, 604, 606, 607, 608, 609, 622, 631, 632, 633, 636, 643, 644, 652, 654, 656, 658, 1202, 1308, 1315, 1352, 4728 of this title; title 25 sections 683, 686, 689, 996.

§ 603. Payments to States

(a) Computation of amounts

From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

[*See main edition for text of (1) to (5)*]

The number of individuals with respect to whom payments described in section 606(b)(2) of this title are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 20 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 20 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 602(a)(19)(F) or section 602(a)(26) of this title.

In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1318 of this title, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.

[*See main edition for text of (b) to (h)*]

(i) Increases in amount

(1) In the case of any calendar quarter which begins after September 30, 1977, and prior to April 1, 1978, the amount payable (as determined under subsection (a) of this section or section 1318 of this title as the case may be) to each State which has a State plan approved

under this part shall (subject to the succeeding paragraphs of this subsection) be increased by an amount equal to the sum of the following:

(A) an amount which bears the same ratio to $46,750,000 as the amount expended as aid to families with dependent children under the State plan of such State during the month of December 1976 bears to the amount expended as aid to families with dependent children under the State plans of all States during such month, and

(B)(i) in the case of Puerto Rico, Guam, and the Virgin Islands, an amount equal to the amount determined under subparagraph (A) with respect to such State, or

(ii) in the case of any other State, an amount which bears the same ratio to $46,750,000, minus the amounts determined under clause (i) of this subparagraph, as the amount allocated to such State under section 1225 of title 31, for the most recent entitlement period for which allocations have been made under such section prior to December 20, 1977, bears to the total of the amounts allocated to all States under section 1225 of title 31 for such period.

(2) As a condition of any State receiving an increase, by reason of the application of the foregoing provisions of this subsection, in the amount determined for such State pursuant to subsection (a) of this section or under section 1318 of this title (as the case may be), such State must agree to pay to any political subdivision thereof which participates in the cost of the State's plan approved under this part, during any calendar quarter with respect to which such increase applies, so much of such increase as does not exceed 100 per centum of such political subdivision's financial contribution to the State's plan for such quarter.

(3) Notwithstanding any other provision of this part, the amount payable to any State by reason of the preceding provisions of this subsection for calendar quarters prior to April 1, 1978, shall be made in a single installment, which shall be payable as shortly after October 1, 1977, as is administratively feasible.

(j) Incentive adjustments; "dollar error rate of aid"

If the dollar error rate of aid furnished by a State under its State plan approved under this part with respect to any six-month period, as based on samples and evaluations thereof, is—

(1) at least 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be determined without regard to the provisions of this subsection; or

(2) less than 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be the amount determined without regard to this subsection, plus, of the amount by which such expenditures are less than they would have been if the erroneous excess payments of aid had been at a rate of 4 per centum—

(A) 10 per centum of the Federal share of such amount, in case such rate is not less than 3.5 per centum,

(B) 20 per centum of the Federal share of such amount, in case such rate is at least 3.0 per centum but less than 3.5 per centum,

(C) 30 per centum of the Federal share of such amount, in case such rate is at least 2.5 per centum but less than 3.0 per centum,

(D) 40 per centum of the Federal share of such amount, in case such rate is at least 2.0 per centum but less than 2.5 per centum,

(E) 50 per centum of the Federal share of such amount, in case such rate is less than 2.0 per centum.

For purposes of this subsection (i) the term "dollar error rate of aid" means the total of the dollar error rates of aid for (I) payments to ineligible families receiving assistance; (II) overpayments to eligible families receiving assistance; (III) underpayments to eligible families receiving assistance; and (IV) nonpayments to eligible families not receiving assistance due to erroneous terminations or denials, and (ii) the term "erroneous excess payments," means the total of (I) erroneous payments to ineligible families receiving assistance, and (II) overpayments to eligible families receiving assistance.

(As amended Nov. 12, 1977, Pub. L. 95-171, § 3(a)(1), 91 Stat. 1354; Dec. 20, 1977, Pub. L. 95-216, title IV, §§ 401, 402(a), 91 Stat. 1559, 1560.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-216, § 401(1), added last par. relating to calendar quarters beginning after Sept. 30, 1977, and before Apr. 1, 1978.

Pub. L. 95-171, § 3(a)(1), substituted in material following par. (5) "20" for "10" percent.

Subsec. (i). Pub. L. 95-216, § 401(2), added subsec. (i).

Subsec. (j). Pub. L. 95-216, § 402(a), added subsec. (j).

EFFECTIVE DATE OF 1977 AMENDMENTS

Section 402(b) of Pub. L. 95-216 provided that: "Payments may be made under the amendment made by subsection (a) [adding subsec. (j) of this section] only in the case of periods commencing on or after January 1, 1978."

Section 3(a)(3) of Pub. L. 95-171 provided that: "The amendments made by this subsection [amending subsec. (a) of this section and section 606(b) of this title] shall apply with respect to payments of aid to families with dependent children made for months beginning on or after October 1, 1977."

DISREGARD OF MATCHING FUNDS REQUIREMENTS IN USE OF FUNDS APPROPRIATED PURSUANT TO TAX REDUCTION AND SIMPLIFICATION ACT OF 1977

Secretary of Health, Education, and Welfare and Secretary of Labor authorized to carry out the work incentive program under this subchapter from the sums appropriated pursuant to the Tax Reduction and Simplification Act of 1977 (Pub. L. 95-30, May 23, 1977, 91 Stat. 126) without regard to the requirements for non-Federal matching funds contained in subsecs. (a)(3)(A) and (d) of this section, see section 401(a) of Pub. L. 95-30, set out as a note under section 602 of this title.

§ 606. Definitions

When used in this part—

[*See main edition for text of (a)*]

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of[or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parents and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 602(a)(7) of this title) which do not meet the preceding requirements of this subsection, but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual, but only with respect to a State whose State plan approved under section 602 of this title includes provision for—

[*See main edition for text of (A) to (D)*]

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made.

Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.

[*See main edition for text of (c) to (f)*]

(As amended Nov. 12, 1977, Pub. L. 95-171, § 3(a)(2), 91 Stat. 1354.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-171 substituted a period for the semicolon at end of cl. (2)(E) and added provisions after such cl. (2)(E) authorizing payments in form of checks drawn jointly to the order of the recipient and the person furnishing goods, services, or items to the needy child and negotiable only upon endorsement by both and requiring placement of statement of specific reasons for the payments in the file of the child maintained by the State or local agency administering the State plan.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (b) by Pub. L. 95-171 applicable with respect to payments of aid to families with dependent children made for months beginning on or after Oct. 1, 1977, see section 3(a)(3) of Pub. L. 95-171, set out as an Effective Date of 1977 Amendment note under section 603 of this title.

FEDERAL FINANCIAL PARTICIPATION IN STATE AID PLANS

Section 3(b) of Pub. L. 95-171 provided that: "Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act [section 602 of this title], for quarters (with respect to which expenditure reports were timely filed by the State) during the period beginning with the calendar quarter in which Public Law 90-248 was enacted [Jan. 2, 1968] and ending with the first calendar quarter of 1977, shall not be denied, on or after October 1, 1977, by reason of the provision of goods, services, or items in the form of a check which is drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and which shows the purpose for which the check is drawn, or by reason of the failure of the State to meet the requirement of the last two sentences of section 403(a) of such Act [subsec. (a) of section 603 of this title] or the failure of the State (or any political subdivision thereof) to carry out the functions and duties prescribed in clauses (A), (B), (C), and (E) of section 406(b)(2) of such Act [subsec. (b)(2) of this section], regardless of the form in which the aid involved was paid, if (and to the extent that) the amount of such aid was correct and the payment of the aid in that form did not result in assistance in cases or in amounts not authorized by or under part A of title IV of such Act [this part]."

§ 607. Dependent children of unemployed fathers

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 606, 608, 1315 of this title.

§ 611. Availability of wage information to States and political subdivisions; procedural safeguards

(a) Notwithstanding any other provision of law, the Secretary shall make available to States and political subdivisions thereof wage information contained in the records of the Social Security Administration which is necessary (as determined by the Secretary in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State

plan for aid and services to needy families with children approved under this part, and which is specifically requested by such State or political subdivision for such purposes.

(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.

(Aug. 14, 1935, ch. 531, title IV, § 411, as added Dec. 20, 1977, Pub. L. 95-216, title IV, § 403(a), 91 Stat. 1561.)

EFFECTIVE DATE

Section effective Dec. 20, 1977, see section 403(d) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

PART C—WORK INCENTIVE PROGRAM FOR RECIPIENTS OF AID UNDER STATE PLAN APPROVED UNDER PART A

§ 635. Federal assistance

DISREGARD OF MATCHING FUNDS REQUIREMENTS IN USE OF FUNDS APPROPRIATED PURSUANT TO TAX REDUCTION AND SIMPLIFICATION ACT OF 1977

Secretary of Health, Education, and Welfare and Secretary of Labor authorized to carry out the work incentive program under this subchapter from the sums appropriated pursuant to the Tax Reduction and Simplification Act of 1977 (Pub. L. 95-30, May 23, 1977, 91 Stat. 126) without regard to the requirements for non-Federal matching funds contained in this section, see section 401(a) of Pub. L. 95-30, set out as a note under section 602 of this title.

PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

§ 652. Duties of Secretary

(a) Establishment of separate organizational unit; duties

The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

[*See main edition for text of (1) to (9)*]

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the number of child support cases in each State during each quarter of the fiscal year last ending before the report is submitted and during each quarter of the preceding fiscal year (including the transitional period beginning July 1, 1976, and ending September 30, 1976, in the case of the first report to which this subparagraph applies), and the disposition of such cases;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the absent parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of aid under a State plan approved under part A has refused to cooperate in identifying and locating the absent parent and the number of cases in which refusal so to cooperate is based on good cause (as determined in accordance with the standards referred to in section 602(a)(26)(B)(ii) of this title);

(G) data, by State, on the use of Federal courts and on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government; and

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report.

[*See main edition for text of (b) and (c)*]

(As amended May 23, 1977, Pub. L. 95-30, title V, § 504(a), 91 Stat. 163.)

AMENDMENTS

1977—Subsec. (a)(10). Pub. L. 95-30 substituted "not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following" for "not later than June 30 of each year beginning after December 31, 1975, submit to the Congress a report on all activities undertaken pursuant to the provisions of this part", substituted a colon for a period at the end of the provisions thus substituted, and added subpars. (A) to (H).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 504(b) of Pub. L. 95-30 provided that: "The amendment made by subsection (a) [amending this section] shall be effective in the case of reports, submitted by the Secretary of Health, Education, and Welfare after 1976."

SUPPLEMENTAL REPORT TO BE SUBMITTED TO CONGRESS NOT LATER THAN JUNE 30, 1977

Section 504(c) of Pub. L. 95-30 provided that: "The Secretary of Health, Education, and Welfare shall submit to the Congress not later than June 30, 1977, a special supplemental report, with respect to activities undertaken pursuant to part D of title IV of the Social Security Act [this part] during the fiscal year ending June 30, 1976, and during the transitional period beginning July 1, 1976, and ending September 30, 1976. Such report shall, with respect to such transitional period, contain all the data and information specified in clauses (A) through (H) of section 452(a)(10) of such Act [subsec. (a)(10) of this section] (as amended by subsection (a) of this section), and with respect to the fiscal year ending June 30, 1976, contain all such data and information which was not included in the report made by such Secretary to the Congress on June 30, 1976, pursuant to section 452(a)(10) of such Act [subsec. (a)(10) of this section], as in effect on such date."

§ 654. State plan for child support

A State plan for child support must—

[*See main edition for text of (1) to (11)*]

(12) provide that any payment required to be made under section 656 or 657 of this title to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments;

(14) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe; and

(15) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary).

(As amended May 23, 1977, Pub. L. 95-30, title V, § 502(a), 91 Stat. 162.)

AMENDMENTS

1977—Cls. (14), (15). Pub. L. 95-30 added cls. (14) and (15).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 502(b) of Pub. L. 95-30 provided that: "The amendments made by this section [amending this section] shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act [May 23, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 655, 1396k of this title.

§ 655. Payments to States

(a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

[*See main edition for text of (1) and (2)*]

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 654(6) of this title during any period beginning after September 30, 1978.

[*See main edition for text of (b)*]

(As amended June 30, 1977, Pub. L. 95-59, § 4, 91 Stat. 255.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-59 substituted "September 30, 1978" for "June 30, 1977" in the provisions following par. (2).

§ 657. Distribution of proceeds

[*See main edition for text of (a) and (b)*]

(c) Collection after termination of assistance; distribution of child support proceeds

Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this subchapter, the State may—

(1) continue to collect amounts of child support payments which represent monthly support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this subchapter, and pay all amounts so collected, which represent monthly support payments, to the family; and

(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect amounts of child support payments which represent monthly support payments from the absent parent and pay the net amount of any amount so collected, which represents monthly support payments, to the family after deducting any costs incurred in making the collection from the amount of any recovery made, and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3)(A) and (B) of this section with respect to excess amounts described in subsection (b) of this section.

(As amended Nov. 12, 1977, Pub. L. 95-171, § 11, 91 Stat. 1357.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-171, § 11(a) to (c), in par. (1), substituted "amounts of child support payments which represent monthly support payments" for "such support payments" and inserted ", which represent monthly support payments," following

"amounts so collected"; in par. (2), substituted "amounts of child support payments which represent monthly support payments" for "such support payments" and inserted ", which represents monthly support payments," following "amount so collected"; changed to a period the semicolon at end of par. (2); and added provision for distribution of child support proceeds.

§ 658. Incentive payments to State or political subdivision for enforcement and collection of support rights; allocation among jurisdictions

(a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 602(a)(26) of this title (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent an amount equal to 15 per centum of any amount collected and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments.

(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under subsection (a) of this section shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

(As amended May 23, 1977, Pub. L. 95-30, title V, § 503(a), 91 Stat. 162.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30, § 503(a)(1), altered the formula for arriving at the amount to be paid for the enforcement and collection of assigned support rights by substituting a formula calling for an amount equal to 15 per centum of any amount collected and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments for a formula calling for an amount equal to 25 per centum of any amount collected (and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments) attributable to the support obligation owed for 12 months and an amount equal to 10 per centum of any amount collected (and required to be distributed as provided in section 657 of this title to reduce or repay assistance payments) attributable to the support obligation owed for any month after the first twelve months for which such collections were made.

Subsec. (b). Pub. L. 95-30, § 503(a)(2), substituted "determined under subsection (a) of this section" for "determined under paragraphs (1) and (2) of subsection (a) of this section".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 503(b) of Pub. L. 95-30 provided that: "The amendments made by subsection (a) [amending this section] shall be applicable with respect to amounts collected on and after October 1, 1977."

§ 659. Enforcement of individual's legal obligations to provide child support or make alimony payments

(a) United States and District of Columbia to be subject to legal process

Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to an individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

(b) Methods of service of legal process

Service of legal process brought for the enforcement of an individual's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate agent designated for receipt of such service of process pursuant to regulations promulgated pursuant to section 661 of this title (or, if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of such governmental entity). Such process shall be accompanied by sufficient data to permit prompt identification of the individual and the moneys involved.

(c) Disclosure of information in answering interrogatories; disciplinary action or civil or criminal liability or penalty prohibited

No Federal employee whose duties include responding to interrogatories pursuant to requirements imposed by section 661(b)(3) of this title shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by him in connection with the carrying out of any of his duties which pertain (directly or indirectly) to the answering of any such interrogatory.

(d) Notice

Whenever any person, who is designated by law or regulation to accept service of process to which the United States is subject under this section, is effectively served with any such process or with interrogatories relating to an individual's child support or alimony payment obligations, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is so made of any such process, send written notice that such process has been so served (together with a copy thereof) to the individual whose moneys are affected thereby at his duty station or last-known home address.

(e) Variance in normal pay and disbursement cycles not required

Governmental entities affected by legal processes served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

(f) Non-liability of United States, disbursing officers, and governmental entities with respect to payments

Neither the United States, any disbursing officer, nor governmental entity shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this section and the regulations issued to carry out this section.

(As amended May 23, 1977, Pub. L. 95-30, title V, § 501(a), (b), 91 Stat. 157.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-30, § 501(a), (b)(1), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted "or the District of Columbia (including any agency, subdivision, or instrumentality thereof)" for "(including any agency or instrumentality thereof and any wholly owned Federal Corporation)" and "as if the United States or the District of Columbia were a private person" for "as if the United States were a private person".

Subsecs. (b) to (f). Pub. L. 95-30, § 501(b)(2), added subsecs. (b) to (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 661, 662 of this title.

§ 661. Regulations pertaining to garnishments

(a) Authority to promulgate

Authority to promulgate regulations for the implementation of the provisions of section 659 of this title shall, insofar as the provisions of such section are applicable to moneys due from (or payable by)—

(1) the executive branch of the Government (including in such branch, for the purposes of this subsection, the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia), be vested in the President (or his designee),

(2) the legislative branch of the Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

(3) the judicial branch of the Government, be vested in the Chief Justice of the United States (or his designee).

(b) Requisite content of promulgated regulations

Regulations promulgated pursuant to this section shall—

(1) in the case of those promulgated by the executive branch of the Government, include a requirement that the head of each agency thereof shall cause to be published, in the appendix of the regulations so promulgated, (A) his designation of an agent or agents to accept service of process, identified by title of position, mailing address, and telephone number, and (B) an indication of the data reasonably required in order for the agency promptly to identify the individual with respect to whose moneys the legal process is brought,

(2) in the case of regulations promulgated for the legislative and judicial branches of the Government set forth, in the appendix to the regulations so promulgated, (A) the name, position, address, and telephone number of the agent or agents who have been designated for service of process, and (B) an indication of the data reasonably required in order for such entity promptly to identify the individual with respect to whose moneys the legal process is brought, and

(3) provide that (A) in the case of regulations promulgated by the executive branch of the Government, each head of a governmental entity (or his designee) shall respond to relevant interrogatories, if authorized by the law of the State in which legal process will issue, prior to formal issuance of such process, upon a showing of the applicant's entitlement to child support or alimony payments, and (B) in the case of regulations promulgated for the legislative and judicial branches of the Government, the person or persons designated as agents for service of process in accordance with paragraph (2) shall respond to relevant interrogatories if authorized by the law of the State in which legal process will issue, prior to formal issuance of legal process, upon a showing of the applicant's entitlement to child support or alimony payments.

(c) Priority of processes

In the event that a governmental entity, which is authorized under this section or regulations issued to carry out this section to accept service of process, pursuant to the provisions of subsection (a) of this section, is served with more than one legal process with respect to the same moneys due or payable to any individual, then such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

(Aug. 14, 1935, ch. 531, title IV, § 461, as added May 23, 1977, Pub. L. 95-30, title V, § 501(c), 91 Stat. 158.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 659 of this title.

§ 662. Definitions

For purposes of section 659 of this title—

(a) The term "United States" means the Federal Government of the United States, consisting of the legislative branch, the judicial branch, and the executive branch thereof, and each and every department, agency, or instrumentality of any such branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature thereof, and the governments of the territories and possessions of the United States.

(b) The term "child support", when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which such individual has such an obligation, and (subject to and in accordance with State law) includes but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; such term also includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(c) The term "alimony", when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of such individual, and (subject to and in accordance with State law) includes but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support; such term also includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. Such term does not include any payment or transfer of property or its value by an individual to his spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(d) The term "private person" means a person who does not have sovereign or other special immunity or privilege which causes such person not to be subject to legal process.

(e) The term "legal process" means any writ, order, summons, or other similar process in the nature of garnishment, which—

(1) is issued by (A) a court of competent jurisdiction within any State, territory, or possession of the United States, (B) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process, or (C) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law, and

(2) is directed to, and the purpose of which is to compel, a governmental entity, which holds moneys which are otherwise payable to an individual, to make a payment from such moneys to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments.

(f) Entitlement of an individual to any money shall be deemed to be "based upon remuneration for employment", if such money consists of—

(1) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to, severance pay, sick pay, and incentive pay, but does not include awards for making suggestions, or

(2) periodic benefits (including a periodic benefit as defined in section 428(h)(3) of this title) or other payments to such individual under the insurance system established by subchapter II of this chapter or any other system or fund established by the United States (as defined in subsection (a) of this section) which provides for the payment of pensions, retirement or retired pay, annuities, dependents or survivors' benefits, or similar amounts payable on account of personal services performed by himself or any other individual (not including any payment as compensation for death under any Federal program, any payment under any Federal program established to provide "black lung" benefits, any payment by the Veterans' Administration as pension, or any payments by the Veterans' Administration as compensation for a service-connected disability or death, except any compensation paid by the Veterans' Administration to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation), and does not consist of amounts paid, by way of reimbursement or otherwise, to such individual by his employer to defray expenses incurred by such individual in carrying out duties associated with his employment.

(g) In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

(1) are owed by such individual to the United States,

(2) are required by law to be, and are, deducted from the remuneration or other payment involved, including but not limited to, Federal employment taxes, and fines and forfeitures ordered by court-martial,

(3) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if such individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1954 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding),

(4) are deducted as health insurance premiums,

(5) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage), or

(6) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

(Aug. 14, 1935, ch. 531, title IV, § 462, as added May 23, 1977, Pub. L. 95-30, title V, § 501(d), 91 Stat. 159.)

SUBCHAPTER V—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 289h, 300b, 1301, 1320a-1, 1320a-3, 1320c-7, 1320c-8, 1320c-21, 1382d, 1395b-1, 1395x of this title; title 7 section 3178.

§ 701. Authorization of appropriations

For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State,

(1) services for reducing infant mortality and otherwise promoting the health of mothers and children; and

(2) services for locating, and for medical, surgical, corrective, and other services and care for and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling,

there are authorized to be appropriated $250,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $300,000,000 for the fiscal year ending June 30, 1971, $325,000,000 for the fiscal year ending June 30, 1972, $350,000,000 for the fiscal year ending June 30, 1973, and for each of the next four fiscal years, and $399,864,200 for the fiscal year ending September 30, 1978, and for each fiscal year thereafter.

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 309(a), 91 Stat. 396.)

AMENDMENTS

1977—Pub. L. 95-83 substituted appropriations authorization of $350,000,000 for the fiscal year ending June 30, 1973 and for each of the next four fiscal years, and $399,864,200 for the fiscal year ending Sept. 30, 1978, and for each fiscal year thereafter for prior appropriations authorization of $350,000,000 for the fiscal year ending June 30, 1973, and each fiscal year thereafter.

SUBCHAPTER VII—ADMINISTRATION

§ 902. Duties of Secretary of Health, Education, and Welfare and the Secretary of Labor

UNIVERSAL COVERAGE OF SOCIAL SECURITY PROGRAMS; STUDY AND REPORT TO PRESIDENT AND CONGRESS RESPECTING SCOPE, ALTERNATIVES, ETC.; CONSULTATION BY SECRETARY

Pub. L. 95-216, title III, § 311, Dec. 20, 1977, 91 Stat. 1531, provided that:

"(a) The Secretary of Health, Education, and Welfare is directed to undertake, as soon as possible after the date of the enactment of this Act [Dec. 20, 1977], a thorough study with respect to the extent of the coverage under the old-age, survivors, and disability insurance programs and under the programs established by title XVIII of the Social Security Act [subchapter XVIII of this chapter]. The study shall examine the feasibility and desirability of covering, under such social security programs, Federal employees, State and local governmental employees, and employees of nonprofit organizations who are not now covered. The study shall include alternative methods of accomplishing such coverage together with any appropriate alternatives to extending coverage to such employees.

"(b) With respect to each major alternative method or proposal included in the study described in subsection (a), such study shall also include an analysis of the changes which would be required in the programs established by the Social Security Act [this chapter] and in any other systems or programs (such as retirement, survivorship, disability, and health programs) affecting the individuals who would be covered under such social security programs under such alternative method or proposal. Such analysis shall include the structural changes required in such programs, the financial impact of such changes, and the effect of such changes on the benefit rights and contribution liabilities of the affected individuals.

"(c) In conducting the study required by subsection (a), the Secretary of Health, Education, and Welfare shall consult, as appropriate, with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of Civil Service Commission, and those officials shall provide him with such information and assistance as he may require. The Secretary shall also solicit the views of other appropriate officials and organizations.

"(d) The Secretary of Health, Education, and Welfare shall submit to the President and the Congress, not later than 2 years after the date of the enactment of this Act [Dec. 20, 1977], a report of the findings of the study required by subsection (a) together with his recommendations for any appropriate legislative changes."

PROPOSALS FOR ELIMINATION OF DEPENDENCY AND SEX DISCRIMINATION UNDER SOCIAL SECURITY PROGRAM; STUDY AND REPORT TO CONGRESS

Pub. L. 95-216, title III, § 341, Dec. 20, 1977, 91 Stat. 1548, provided that:

"(a) The Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, shall make a detailed study, within the Department of Health, Education, and Welfare and the Social Security Administration, of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the program established under title II of the Social Security Act [subchapter II of this chapter], and of proposals to bring about equal treatment for men and women in any and all respects under such program, taking into account the practical effects (particularly the effect upon women's entitlement to such benefits) of factors such as—

"(1) changes in the nature and extent of women's participation in the labor force,

"(2) the increasing divorce rate, and

"(3) the economic value of women's work in the home.

The study shall include appropriate cost analyses.

"(b) The Secretary shall submit to the Congress within six months after the date of the enactment of this Act [Dec. 20, 1977] a full and complete report on the study carried out under subsection (a)."

§ 907. Advisory Council on Social Security

FILING DATE OF REPORT REQUIRED IN 1979

Pub. L. 95-216, title III, § 372, Dec. 20, 1977, 91 Stat. 1559, provided that: "Notwithstanding the provisions of section 706(d) of the Social Security Act [subsec. (d) of this section], the report of the Advisory Council on Social Security which is due not later than January 1, 1979, may be filed at any date prior to October 1, 1979."

§ 907a. National Commission on Social Security

(a) Establishment; membership; Chairman and Vice Chairman; quorum; terms of office; vacancies; per diem and expense reimbursement; meetings

(1) There is established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of two years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b) Continuing study, investigation, and review of social security program; scope of study, etc., and public participation

(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act [42 U.S.C. 401 et seq.]; and

(B) the health insurance programs established by title XVIII of such Act [42 U.S.C. 1395 et seq.].

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirment income test to unearned as well as earned income;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both;

(F) the need to develop a special Consumer Price Index for the elderly, including the financial impact that such an index would have on the costs of the programs established under the Social Security Act [42 U.S.C. 301 et seq.]; and

(G) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c) Special, annual, and final reports to President and Congress concerning implementation, etc., of study, investigation, and review responsibilities; termination of Commission

(1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b) of this section, with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b) of this section, together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d) Executive Director and additional personnel; appointment and compensation

(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5 governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) Administrative procedures

In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) Data and information from other Federal departments and agencies

The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) Administrative support services from General Services Administration; reimbursement

The General Services Administration shall provide to the Commission, on a reimbursable basis such administrative support services as the Commission may request.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(i) Notice of and attendance at meetings of Health Insurance Benefits Advisory Council

It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act [42 U.S.C. 1395dd]) to provide timely notice to the Commission of any meeting, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

(Pub. L. 95-216, title III, § 361, Dec. 20, 1977, 91 Stat. 1556.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(1)(A), (B), (2)(F), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to this chapter (§ 301 et seq.). Titles II and XVIII of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVIII (§ 1395 et seq.) of this chapter. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Level V of the Executive Schedule, referred to in subsec. (d)(1), is set out in section 5316 of Title 5, Government Officers and Employees.

The provisions of title 5 governing appointments to the competitive service, referred to in subsec. (d)(2), are classified to section 3301 et seq. of Title 5.

CODIFICATION

Section was enacted as part of the Social Security Amendments of 1977 and not as part of the Social Security Act, which comprises this chapter.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 909. Delivery of benefit checks; recovery of overpayments

(a) If the day regularly designated for the delivery of benefit checks under subchapter II or XVI of this chapter falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5 in any month, the benefit checks which would otherwise be delivered on such day shall be mailed for delivery on the first day preceding such day which is not a Saturday, Sunday, or legal public holiday (as so defined), without regard to whether the delivery of such checks would as a result have to be made before the end of the month for which such checks are issued.

(b) If more than the correct amount of payment under subchapter II or XVI of this chapter is made to any individual as a result of the receipt of a benefit check pursuant to subsection (a) of this section before the end of the month for which such check is issued, no action shall be taken (under section 404 or 1383(b) of this title or otherwise) to recover such payment or the incorrect portion thereof.

(Aug. 14, 1935, ch. 531, title VII, § 708, as added Dec. 20, 1977, Pub. L. 95-216, title III, § 333(a), 91 Stat. 1543.)

EFFECTIVE DATE

Section 333(b) of Pub. L. 95-216 provided that: "The amendment made by subsection (a) of this section [enacting this section] shall apply with respect to benefit checks the regularly designated day for delivery of which occurs on or after the thirtieth day after the date of the enactment of this Act [Dec. 20, 1977]."

SUBCHAPTER X—GRANTS TO STATES FOR AID TO THE BLIND

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1382c, 1395v, 1396a, 1396b, 1396d, 1397b of this title; title 29 section 981; title 31 section 665.

SUBCHAPTER XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 432, 1320c-21 of this title.

PART A—GENERAL PROVISIONS

§ 1301. Definitions

(a) When used in this chapter—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in subchapters IV, V, VII, XI, and XIX of this chapter includes the Virgin Islands and Guam. Such term when used in subchapters III, IX, and XII of this chapter also includes the Virgin Islands. Such term when used in subchapter V and in part B of this subchapter of this chapter also includes American Samoa and the Trust Territory of the Pacific Islands. In the case of Puerto Rico, the Virgin Islands, and Guam, subchapters I, X, and XIV, and subchapter XVI of this chapter (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "State" when used in such subchapters (but not in subchapter XVI of this chapter as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.

[*See main edition for text of (2) to (8)*]

(9) The term "shared health facility" means any arrangement whereby—

(A) two or more health care practitioners practice their professions at a common physical location:

(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

(C) such practitioners have a person (who may himself be a practitioner)—

(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners;

and who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

(D) at least one of such practitioners received payments on a fee-for-service basis under subchapters V, XVIII, and XIX of this chapter in an amount exceeding $5,000 for any one month during the preceding 12 months or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1395x(u) of this title, a health maintenance organization (as defined in section 300e(a) of this title), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.

[*See main edition for text of (b) to (d)*]

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(c)(2), (*l*)(2), 91 Stat. 1184, 1191.)

CODIFICATION

Amendment by section 5(*l*)(2) of Pub. L. 95-142 has not been executed to the second sentence of subsec. (a)(1) of this section as provided for in the directory language of section 5(*l*)(2) of Pub. L. 95-142 but to the third sentence of such subsec. (a)(1) as the probable intent of Congress.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-142, § 5(*l*)(2), added provision that the term "State" when used in part B of this subchapter also includes American Samoa and the Trust Territory of the Pacific Islands.

Subsec. (a)(9). Pub. L. 95-142, § 5(c)(2), added subsec. (a)(9).

§ 1305. Short title of chapter

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95-216, § 1, Dec. 20, 1977, 91 Stat. 1509, provided in part that Pub. L. 95-216 [enacting sections 433, 611, 907a, and 909 of this title, amending sections 401, 402, 403, 405, 409, 410, 411 to 413, 415 to 418, 423, 424a, 426, 429, 430, 602, 603, 1315, 1395r, 1395u, and 1395x of this title, section 441i of Title 2, The Congress, sections 1401, 1402, 3101, 3102, 3111, 3121, 3304, 3306, and 6051 of Title 26, Internal Revenue Code, and section 231b of Title 45, Railroads, and enacting provisions set out as notes under sections 402, 403, 409, 411, 413, 418, 424a, 430, 602, 603, 902, 907, 909, 1383, and 1395x of this title, section 441i of Title 2, sections 1401, 1402, 3102, 3111, and 3121 of Title 26, and section 231b of Title 45] may be cited as the "Social Security Amendments of 1977".

Pub. L. 95-142, § 1, Oct. 25, 1977, 91 Stat. 1175, provided that: "This Act [which enacted sections 1320a, 1320a-3 to 1320a-5, 1320c-20 to 1320c-22, and 1396k of this title, amended sections 254e, 1301, 1320c-1, 1320c-3, 1320c-4, 1320c-6, 1320c-7, 1320c-9, 1320c-12, 1320c-15 to 1320c-17, 1395b-1, 1395f, 1395g, 1395h, 1395*l*, 1395u, 1395x, 1395y, 1395cc, 1395nn, 1396a, 1396b, 1396h, 1397a, 1397b, and 3524 of this title, and enacted provisions set out as notes under sections 254e, 1320a, 1320a-3, 1320a-5, 1320c-6, 1320c-7, 1395f, 1395g, 1395h, 1395*l*, 1395x, 1395cc, 1395*ll*, 1395nn, 1396a, and 1396b of this title] may be cited as the 'Medicare-Medicaid Anti-Fraud and Abuse Amendments'."

§ 1306a. Public access to State disbursement records

No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to subchapter I (other than section 303(a)(3) thereof), IV, X, XIV, or XVI (other than section 1383(a)(3) thereof) of this chapter, by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

(Oct. 20, 1951, ch. 521, title VI, § 618, 65 Stat. 569; Sept. 13, 1960, Pub. L. 86-778, title VI, § 603(a), 74 Stat. 992; July 25, 1962, Pub. L. 87-543, title I, § 141(e), 76 Stat. 205.)

REFERENCES IN TEXT

Section 1383(a)(3), referred to in text, was in the original a reference to section 1603(a)(3) of the Social Security Act as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200, and amended. That section was amended generally by Pub. L. 92-603, § 301, Oct. 30, 1972, 86 Stat. 1478. However, the amendment by Pub. L. 92-603 was inapplicable to Puerto Rico, Guam, and the Virgin Islands, so that the prior section (which is set out as a note under section 1383 of this title) continues in effect for Puerto Rico, Guam, and the Virgin Islands.

CODIFICATION

Section was enacted as part of act Oct. 20, 1951, popularly known as the Revenue Act of 1951, and not as part of the Social Security Act which comprises this chapter.

AMENDMENTS

1962—Pub. L. 87-543 substituted "XIV, or XVI (other than section 1383(a)(3) thereof)" for "or XIV".

1960—Pub. L. 86-778 inserted "(other than section 303(a)(3) thereof)" following "pursuant to subchapter I".

EFFECTIVE DATE OF 1960 AMENDMENT

Section 603(b) of Pub. L. 86-778 provided that: "The amendment made by subsection (a) [amending this section] shall take effect October 1, 1960."

§ 1315. Demonstration projects; waiver of State plan requirements; costs regarded as State plan expenditures; availability of appropriations

(a) In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of subchapter I, VI, X, XIV, XVI, XIX, or XX of this chapter, or part A of subchapter IV of this chapter, in a State or States—

(1) the Secretary may waive compliance with any of the requirements of section 302, 602, 802, 1202, 1352, 1382, 1396a, 1397a, 1397b, or 1397c of this title, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(2) costs of such project which would not otherwise be included as expenditures under section 303, 603, 803, 1203, 1353, 1383, 1396b, or 1397a of this title, as the case may be, and which are not included as part of the costs of projects under section 1310 of this title, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such subchapter, or for administration of such State plan or plans, or expenditures with respect to which payment shall be made under section 1397a of this title, as may be appropriate.

In addition, not to exceed $4,000,000 of the aggregate amount appropriated for payments to States under such subchapters for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such projects as is not covered by payments under such subchapters and is not included as part of the cost of projects for purposes of section 1310 of this title.

(b)(1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of subchapter IV of this chapter may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In estab-

lishing and conducting any such project the State shall—

(A) provide that not more than one such project be conducted on a statewide basis;

(B) provide that in making arrangements for public service employment—

(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(ii) such project will not result in the displacement of employed workers,

(iii) each participant in such project shall be compensated for work performed by him at an hourly rate equal to the prevailing hourly wage for similar work in the locality where the participant performs such work (and, for purposes of this clause, benefits payable under the State's plan approved under part A of subchapter IV of this chapter of the family of which such participant is a member shall be regarded as compensation for work performed by such participant),

(iv) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and

(v) appropriate workmen's compensation protection is provided to all participants; and

(C) provide that participation in such project by any individual receiving aid to families with dependent children be voluntary.

(2) Any State which establishes and conducts demonstration projects under this subsection may, subject to paragraph (3), with respect to any such project—

(A) waive, subject to paragraph (3), any or all of the requirements of sections 602(a)(1) of this title (relating to statewide operation), 602(a)(3) of this title (relating to administration by a single State agency), 602(a)(8) of this title (relating to disregard of earned income), except that no such waiver of 602(a)(8) of this title shall operate to waive any amount in excess of one-half of the earned income of any individual, and 602(a)(19) of this title (relating to the work incentive program);

(B) subject to paragraph (4), use to cover the costs of the project such funds as are appropriated for payment to such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of subchapter IV of this chapter for any fiscal year in which such projects are conducted; and

(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1221 et seq.] for any fiscal year in which the project is conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

(3)(A) Any State which wishes to establish and conduct demonstration projects under the provisions of this subsection shall submit an application to the Secretary in such form and containing such information as the Secretary may require. Whenever any State submits such an application to the Secretary, it shall at the same time issue public notice of that fact together with a general description of the project with respect to which the application is submitted, and shall invite comment thereon from interested parties and comments thereon may be submitted, within the 30-day period beginning with the date the application is submitted to the Secretary, to the State or the Secretary by such parties. The State shall also make copies of the application available for public inspection. The Secretary shall also immediately publish a summary of the proposed project, make copies of the application available for public inspection, and receive and consider comments submitted with respect to the application. A State shall be authorized to proceed with a project submitted under this subsection—

(i) when such application has been approved by the Secretary (which shall be no earlier than 30 days following the date the application is submitted to him), or

(ii) 60 days after the date on which such application is submitted to the Secretary unless, during such 60 day period, he denies the application.

(B) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of subchapter IV of this chapter, the Secretary may disapprove such waiver. The project with respect to which any such disapproved waiver was made shall be terminated by such State not later than the last day of the month following the month in which such waiver was disapproved.

(4) Any amount payable to a State under section 603(a) of this title on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to "unemployment" as that term is used in section 607 of this title.

(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than September 30, 1980.

(As amended Dec. 20, 1977, Pub. L. 95-216, title IV, § 404, 91 Stat. 1562.)

REFERENCES IN TEXT

The State and Local Fiscal Assistance Act of 1972, referred to in subsec. (b)(2)(C), is Pub. L. 92-512, Oct. 20, 1972, 86 Stat. 919, as amended, which is classified principally to chapter 24 (§ 1221 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of Title 31 and Tables.

AMENDMENTS

1977—Pub. L. 95-216 designated existing provisions as subsec. (a) and existing pars. (a) and (b) thereof as pars. (1) and (2), respectively, and added subsec. (b).

§ 1318. Alternative Federal payment with respect to public assistance expenditures

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 603 of this title.

§ 1320a. Uniform reporting systems for health services facilities and organizations

(a) Establishment; criteria for regulations; requirements for hospitals

For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this chapter, the Secretary shall establish by regulation, for each such type of health services facility or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

(1) The aggregate cost of operation and the aggregate volume of services.

(2) The costs and volume of services for various functional accounts and subaccounts.

(3) Rates, by category of patient and class of purchaser.

(4) Capital assets, as defined by the Secretary, including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative system for producing comparable and uniform health information and statistics described in section 242k(e)(1) of this title. In reporting under such a system, hospitals shall employ such chart of accounts, definitions, principles, and statistics as the Secretary may prescribe in order to reach a uniform reconciliation of financial and statistical data for specified uniform reports to be provided to the Secretary.

(b) Monitoring, etc., of systems by Secretary

The Secretary shall—

(1) monitor the operation of the systems established under subsection (a) of this section;

(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

(3) periodically revise such systems to improve their effectiveness and diminish their cost.

(c) Availability of information to appropriate agencies and organizations

The Secretary shall provide information obtained through use of the uniform reporting systems described in subsection (a) of this section in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 300*l*-4 of this title) and State health planning and development agencies (designated under section 300m of this title), as may be necessary to carry out such agencies' and organizations' functions.

(Aug. 14, 1935, ch. 531, title XI, § 1121, as added Oct. 25, 1977, Pub. L. 95-142, § 19(a), 91 Stat. 1203.)

PRIOR PROVISIONS

A prior section 1320a, act Aug. 14, 1935, ch. 531, title XI, § 1121, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 250(a), 81 Stat. 920, provided for assistance in the form of institutional services in intermediate care facilities, the subsecs. providing as follows: subsec. (a), modification of certain plans to include such benefit; subsec. (b), eligible individuals; subsec. (c), payments and Federal medical assistance percentage; subsec. (d), conditions, limitations, rights, and obligations applicable to modified plans; and subsec. (e), definition of "intermediate care facility", now covered in section 1396d(c) of this title; and was repealed by Pub. L. 92-223, § 4(c), Dec. 28, 1971, 85 Stat. 810.

Section was additionally amended by Pub. L. 92-603, title II, § 278(a) (24), Oct. 30, 1972, 86 Stat. 1453, without reference to the earlier repeal of this section by Pub. L. 92-223.

TIME PERIODS FOR ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS; CONSULTATIONS WITH INTERESTED PARTIES

Section 19(c)(1) of Pub. L. 95-142 provided that: "The Secretary of Health, Education, and Welfare shall establish the systems described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) [subsec. (a) of this section] only after consultation with interested parties and—

"(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

"(B) for other types of health services facilities and organizations, not later than the end of the two-year period;

beginning on the date of enactment of this Act [Oct. 25, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395x, 1396a of this title.

§ 1320a-3. Disclosure of ownership and related information; procedure; definitions; scope of requirements

(a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by subchapters V, XVIII, XIX, and XX of this chapter, or

(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under subchapters V, XVIII, XIX, and XX of this chapter,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity or in any subcontractor (as defined by the Secretary in regulations) in which the entity directly or indirectly has a 5 per centum or more ownership interest.

(2) As used in this section, the term "disclosing entity" means an entity which is—

(A) a provider of services (as defined in section 1395x(u) of this title, other than a fund), an independent clinical laboratory, a renal disease facility, or a health maintenance organization (as defined in section 300e(a) of this title);

(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to subchapter V of this chapter or under a State plan approved under subchapter XIX of this chapter;

(C) a carrier or other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of subchapter XVIII of this chapter, or both, or for purposes of a State plan approved under subchapter XIX of this chapter) pursuant to (i) an agreement under section 1395h of this title, (ii) a contract under section 1395u of this title, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under subchapter XIX of this chapter; or

(D) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services with respect to which payment may be claimed by the entity under a State plan or program approved under subchapter XX of this chapter.

(3) As used in this section, the term "person with an ownership or control interest" means, with respect to an entity, a person who—

(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

(B) is an officer or director of the entity, if the entity is organized as a corporation; or

(C) is a partner in the entity, if the entity is organized as a partnership.

(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1) of this section, with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.

(Aug. 14, 1935, ch. 531, title XI, § 1124, as added Oct. 25, 1977, Pub. L. 95-142, § 3(a)(1), 91 Stat. 1177.)

EFFECTIVE DATE

Section 3(e) of Pub. L. 95-142 provided that: "The amendment made by subsection (a)(1) [enacting this section] shall apply with respect to certifications and recertifications made (and participation in the programs established by titles V, XVIII, XIX, and XX of the Social Security Act [subchapters V, XVIII, XIX and XX, of this chapter respectively] pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act [Oct. 25, 1977]. The remaining amendments made by this section [amending sections 1395x(j)(11) and 1395cc(b)(2)(C) of this title] shall take effect on the date of the enactment of this Act [Oct. 25, 1977]; except that the amendments made by subsections (c) [amending sections 1396a(a)(35) and (38) and 1396b(i)(2) of this title] and (d) [amending sections 1397a(a)(15) and 1397b of this title] shall become effective January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395x, 1396a, 1397b of this title.

§ 1320a-4. Issuance of subpenas by Comptroller General

(a) Authorization; scope; service and proof of service

For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under this chapter, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return

post office receipt therefor signed by the person so served, shall be proof of service.

(b) Contumacy or refusal to obey subpena; contempt proceedings

In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General shall be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title, relating to classification and General Schedule pay rates.

(c) Nondisclosure of personal medical records by General Accounting Office

No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.

(Aug. 14, 1935, ch. 531, title XI, § 1125, as added Oct. 25, 1977, Pub. L. 95-142, § 6, 91 Stat. 1192.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 1320a-5. Disclosure by institutions, organizations, and agencies of owners, officers, etc., convicted of offenses related to programs; notification requirements; definition

(a) As a condition of participation in or certification or recertification under the programs established by subchapters XVIII, XIX, and XX of this chapter, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b) of this section) of such institution, organization, or agency, and

(2) has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

(b) For the purposes of this section, the term "managing employee" means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.

(Aug. 14, 1935, ch. 531, title XI, § 1126, as added Oct. 25, 1977, Pub. L. 95-142, § 8(a), 91 Stat. 1194.)

EFFECTIVE DATE

Section 8(e) of Pub. L. 95-142 provided that: "The amendments made by this section [enacting this section and amending sections 1395cc(a)(3) and (b)(2)(G), 1396b(n), and 1397a(a)(16) of this title] shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act [Oct. 25, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395cc, 1396b, 1397a of this title.

PART B—PROFESSIONAL STANDARDS REVIEW

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300k-2, 1301, 1395x of this title.

§ 1320c-1. Professional Standards Review Organizations

[*See main edition for text of* (a)]

(b) Qualified organizations eligible for designation

For purposes of subsection (a) of this section, the term "qualified organization" means—

(1) when used in connection with any area—

(A) an organization (i) which is a nonprofit professional association (or a component organization thereof), (ii) which is composed of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area, (iii) the membership of which includes a substantial proportion of all such physicians in such area, (iv) which is organized in a manner which makes available professional competence to review health care services of the types and kinds with respect to which Professional Standards Review Organizations have review responsibilities under this part, (v) the membership of which is voluntary and open to all doctors of medicine or osteopathy licensed to engage in the practice of medicine or surgery in such area without re-

quirement of membership in or payment of dues to any organized medical society or association, and (vi) which does not restrict the eligibility of any member for service as an officer of the Professional Standards Review Organization or eligibility for and assignment to duties of such Professional Standards Review Organization, or, subject to subsection (c)(1) of this section,

(B) such other public, nonprofit private, or other agency or organization, which the Secretary determines, in accordance with criteria prescribed by him in regulations, to be of professional competence and otherwise suitable; and

(2) an organization which the Secretary, on the basis of his examination and evaluation of a formal plan which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h) of this section (as well as on the basis of other relevant data and information), finds to be willing to perform and capable of performing, in an effective, timely, and objective manner and at reasonable cost, the duties, functions, and activities of a Professional Standards Review Organization required by or pursuant to this part.

[*See main edition for text of* (c) *and* (d)]

(e) Scope of review responsibilities

Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this chapter (other than this part) shall not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this chapter wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1320c-4(a) of this title) must be satisfied.

[*See main edition for text of* (f) *and* (g)]

(h) Development, preparation, consultation, etc., requirements for State health care facility plan and modifications

(1) During the development and preparation by an organization of its formal plan under subsection (b)(2) of this section or of any modification of such plan to include review of services in skilled nursing facilities (as defined in section 1395x(j) of this title) or intermediate care facilities (as defined in section 1396d(c) of this title) or review of ambulatory care services, the organization shall consult with the single State agency responsible for administering or supervising the administration of the State plan approved under subchapter XIX of this chapter for the State in which the organization is located.

(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

(3) The Secretary, before making the findings described in subsection (b)(2) of this section or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings became effective.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(a), (d)(2)(A), (B), (o)(1), 91 Stat. 1183, 1185, 1191.)

AMENDMENTS

1977—Subsec. (b)(1)(A). Pub. L. 95-142, § 5(o)(1), substituted "(c)(1)" for "(c)(i)".

Subsec. (b)(2). Pub. L. 95-142, § 5(d)(2)(A), substituted "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h) of this section" for "submitted to him by the association, agency, or organization".

Subsec. (e). Pub. L. 95-142, 5(a), substituted provisions authorizing the Secretary to specifically direct the extent of review responsibilities of an organization and provisions relating to review requirements of an organization with respect to eligibility and payment of benefits, for provisions authorizing the Secretary to waive review, certification, and similar activities covered by organizations.

Subsec. (h). Pub. L. 95-142, § 5(d)(2)(B), added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*-2, 1320c-3, 1320c-16, 1320c-18 of this title.

§ 1320c-3. Trial period for Professional Standards Review Organization

[*See main edition for text of* (a)]

(b) Functions and duties authorized to be performed during period

During any such trial period (which may not exceed 48 months except as provided in subsection (c) of this section), the Secretary may require a Professional Standards Review Organization to perform, in addition to review of health care services provided by or in institutions, only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing. The number and type of such duties shall, during the trial period, be progressively increased as the organization becomes capable of added responsibility so that, by the end of such period, such organization shall be considered a

qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require. Any of such duties and functions not performed by such organization during such period shall be performed in the manner and to the extent otherwise provided for under law.

(c) Extension of period

If the Secretary finds that an organization designated under subsection (a) of this section has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.

(d) Termination of designation agreement; notice requirements

Any agreement under which any organization is conditionally designated as the Professional Standards Review Organization for any area may be terminated by such organization upon 90 days notice to the Secretary or by the Secretary upon 90 days notice to such organization.

(e) Procedures applicable for determination by Secretary of qualifications, etc., of designated organization

In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1320c-1(h) of this title (concerning the Secretary's consideration of comments of the Governor of the State in which the organization is located).

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(b), (d)(2)(C), 91 Stat. 1184, 1186.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-142, § 5(b)(1), added ", in addition to review of health care services provided by or in institutions," following "to perform", and substituted "48 months except as provided in subsection (c) of this section" for "24 months", and "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require" for "or ordered by physicians and other practitioners and institutional and other health care facilities, agencies, and organizations".

Subsec. (c). Pub. L. 95-142, § 5(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-142, § 5(b)(2), redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 95-142, § 5(d)(2)(C), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-4 of this title.

§ 1320c-4. Duties and functions of Professional Standards Review Organizations

(a) Responsibility for review of professional activities; case criteria; patient profiles; physician review of hospital care; involvement of reviewing physicians

(1) Notwithstanding any other provision of law, but consistent with the provisions of this part, it shall be the duty and function of each Professional Standards Review Organization for any area to assume, at the earliest date practicable, responsibility for the review of the professional activities in such area of physicians and other health care practitioners and institutional and noninstitutional providers of health care services (except as provided in paragraph (7)) in the provision of health care services and items for which payment may be made (in whole or in part) under this chapter for the purpose of determining whether—

[*See main edition for text of (A) to (C), (2) to (4)*]

(5) Physicians assigned responsibility for the review of hospital care may be only those having active hospital staff privileges in at least one of the participating hospitals in the area served by the Professional Standards Review Organization.

(6) No physician shall be permitted to review—

(A) health care services provided to a patient if he was directly responsible for providing such services, or

(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

For purposes of this paragraph, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

(7)(A) Except as provided in subparagraph (B), a Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1396d(c) of this title) and in public institutions for the mentally retarded (described in section 1396d(d)(1) of this title) only if (i) the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under subchapter XIX of this chapter for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, or (ii) the State requests such organization to assume such responsibility.

(B) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities in the State that are

also skilled nursing facilities (as defined in section 1395x(j) of this title), to the extent that the Secretary finds that the performance of such function by the single State agency (described in subparagraph (A)) for that State is inefficient.

[*See main edition for text of* (b) *to* (d)]

(e) Review committees of hospitals or other operating health care facilities or organizations

(1) Each Professional Standards Review Organization shall utilize the services of, and accept the findings of, the review committees of a hospital (including any skilled nursing facility, as defined in section 1395x(j) of this title, or intermediate care facility, as defined in section 1396d(c) of this title, which is also a part of such hospital) or other operating health care facility or organization (other than such a skilled nursing facility or intermediate care facility which is not a part of a hospital) located in the area served by such organization, but only when and only to the extent and only for such time that such committees in such hospital or other operating health care facility or organization have demonstrated to the satisfaction of such organization their capacity effectively and in timely fashion to review activities in such hospital or other operating health care facility or organization (including the medical necessity of admissions, types and extent of services ordered, and lengths of stay) so as to aid in accomplishing the purposes and responsibilities described in subsection (a)(1) of this section, except where the Secretary disapproves, for good cause, such acceptance.

(2) The Secretary may prescribe regulations to carry out the provisions of this subsection.

(f) Agreement requirements

[*See main edition for text of* (1) *and* (2)]

(3) Any such agreement with an organization under this part may be in the form of a grant or an assistance agreement.

(g) Priority for requests for review responsibility over shared health facilities; assumption or request for review responsibility over ambulatory care services

(1) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

(2) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not earlier than the date the organization is designated as a Professional Standards Review Organization (other than under section 1320c-3 of this title) and not later than two years after the date the organization has been so designated, but any such designated Professional Standards Review Organization may be approved to perform such review responsibility at any earlier time if such organization applies for, and is found capable of exercising, such responsibility.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(c)(1), (d)(3), (o)(2), (p), 91 Stat. 1184, 1188, 1191, 1192.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-142, § 5(d)(3)(B)(i), (o)(2), added "(except as provided in paragraph (7))" following "providers of health care services", and struck out "(subject to the provisions of subsection (g) of this section)" preceding "be the duty".

Subsec. (a)(5). Pub. L. 95-142, § 5(p), struck out restriction on assigned physicians relating to scope of participation in review of care and services provided in any hospital in which such physicians have active staff privileges.

Subsec. (a)(6). Pub. L. 95-142, § 5(c)(1)(A),(B), in subpar. (A) substituted "directly responsible for" for "directly or indirectly involved in" and in subpar. (B) substituted "a significant financial" for "any financial".

Subsec. (a)(7). Pub. L. 95-142, § 5(d)(3)(B)(ii), added subsec. (a)(7).

Subsec. (e)(1). Pub. L. 95-142, § 5(d)(3)(A), added provisions relating to utilization of services, etc., of review committees from skilled nursing facilities and intermediate care facilities which are parts of hospitals.

Subsec. (f)(3). Pub. L. 95-142, § 5(c)(1)(C), added subsec. (f)(3).

Subsec. (g). Pub. L. 95-142, § 5(c)(1)(D), designated existing provisions as par. (1) and, as so designated, substituted provisions relating to priority for review responsibility with respect to shared health facilities, for provisions relating to review responsibility as limited to, unless otherwise authorized, health care services by or in institutions, and added par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c-1, 1320c-5, 1320c-7, 1320c-8, 1320c-16, 1320c-20, 1320c-22 of this title.

§ 1320c-6. Submission of reports by Professional Standards Review Organizations

If, in discharging its duties and functions under this part, any Professional Standards Review Organization determines that any health care practitioner or any hospital, or other health care facility, agency, or organization has violated any of the obligations imposed by section 1320c-9 of this title, such organization shall report the matter to the Statewide Professional Standards Review Council for the State in which such organization is located together with the recommendations of such Organization as to the action which should be taken with respect to the matter. Any Statewide Professional Standards Review Council receiving any such report and recommendation shall review the same and promptly transmit such report and recommendation to the Secretary together with any additional comments or recommendations thereon as it deems appropriate.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 13(b)(4), 91 Stat. 1198.)

AMENDMENTS

1977—Pub. L. 95-142 struck out provisions authorizing the Secretary to utilize a Professional Standards Review Organization in lieu of a program review team for purposes of sections 1395y(d)(1)(C) and 1395cc(b)(2)(F) of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 13(c) of Pub. L. 95-142 provided that: "The amendments made by this section [amending sections 1395y(d), and 1395cc(b)(2)(F) of this title] shall take effect on the date of the enactment of this Act [Oct. 25, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320c-9, 1395y of this title.

§ 1320c-7. Claims review by Professional Standards Review Organization as condition for payment by Secretary

(a) Review and disapproval

Except as provided for in section 1320c-8 of this title and subsection (d) of this section, no Federal funds appropriated under any subchapter of this chapter (other than subchapter V) for the provision of health care services or items shall be used (directly or indirectly) for the payment, under such subchapter or any program established pursuant thereto, of any claim for the provision of such services or items, unless the Secretary, pursuant to regulation determines that the claimant is without fault if—

[*See main edition for text of (1) and (2)*]

(b) Notice of disapproval

[*See main edition for text of (b)*]

(c) Conclusiveness of particular determinations

Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1320c-4(a) of this title in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1320c-8 and 1320c-20(a)(1) and (d)(3) of this title) for purposes of payment under this chapter, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1395h of this title, carriers which are parties to contracts entered into by the Secretary pursuant to section 1395u of this title or single State agencies administering or supervising the administration of State plans approved under subchapter XIX of this chapter.

(d) Payment for disapproved inpatient hospital services or posthospital extended care services

In any case in which a Professional Standards Review Organization disapproves (under subsection (a) of this section) of inpatient hospital services or posthospital extended care services, payment may be made for such services furnished before the second day after the day on which the provider received notice of such disapproval, or, if such organization determines that more time is required in order to arrange postdischarge care, payment may be made for such services furnished before the fourth day after the day on which the provider received notice of such disapproval.

(As amended Oct. 25, 1977, Pub. L. 95-142, §§ 5(d)(1), 22(a), 91 Stat. 1185, 1208.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142, § 22(a)(1), added reference to subsec. (d) of this section.

Subsec. (c). Pub. L. 95-142, § 5(d)(1), added subsec. (c).

Subsec. (d). Pub. L. 95-142, § 22(a)(2), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 22(b) of Pub. L. 95-142 provided that: "The amendments made by subsection (a) [amending subsec. (a) of this section and adding subsec. (d) of this section] shall be effective on the date of enactment of this Act [Oct. 25, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-20 of this title.

§ 1320c-9. Obligations of health care practitioners and providers of health care services

[*See main edition for text of (a)*]

(b) Failure to comply with obligations; gross and flagrant violations; exclusion of health care practitioner, etc., from eligibility; sanctions and penalties; hearing and review

(1) If after reasonable notice and opportunity for discussion with the practitioner or provider concerned, any Professional Standards Review Organization submits a report and recommendations to the Secretary pursuant to section 1320c-6 of this title (which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate) and if the Secretary determines that such health care practitioner or hospital, or other health care facility, agency, or organization, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under this chapter, has—

(A) by failing, in a substantial number of cases, substantially to comply with any obligation imposed on him under subsection (a) of this section, or

(B) by grossly and flagrantly violating any such obligation in one or more instances,

demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, he (in addition to any other sanction pro-

vided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or provider from eligibility to provide such services on a reimbursable basis.

[*See main edition for text of (2) to (4); (c)*]

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(e), (o)(3), 91 Stat. 1189, 1191.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-142 added "or" following "permanently" and substituted "health care practitioner or hospital, or other health care facility, agency, or organization" for "practitioner or provider" wherever appearing therein.

§ 1320c-12. National Professional Standards Review Council

(a) Establishment; membership

[*See main edition for text of (1)*]

(2) Members of the Council shall be appointed for a term of three years, except that the Secretary may provide, in the case of any terms scheduled to expire after January 1, 1978, for such shorter terms as will ensure that (on a continuing basis) the terms of no more than four members expire in any year. Members of the Council shall be eligible for reappointment.

[*See main edition for text of (3); (b) to (e)*]

(f) Repealed. Pub. L. 95-142, § 5(g), Oct. 25, 1977, 91 Stat. 1189

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(f), (g), 91 Stat. 1189.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-142, § 5(f), added provisions relating to authority of Secretary with respect to terms of members scheduled to expire after Jan. 1, 1978.

Subsec. (f). Pub. L. 95-142, § 5(g), struck out subsec. (f), which related to reports of the Council and set forth the required contents for such reports.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-22 of this title.

§ 1320c-15. Disclosure of data or information

(a) General prohibition; exceptions

Any data or information acquired by any Professional Standards Review Organization, in the exercise of its duties and functions, shall be held in confidence and shall not be disclosed to any person except (1) to the extent that may be necessary to carry out the purposes of this part, (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care, or (3) in accordance with subsection (b) of this section.

(b) Disclosure for purpose of investigating cases or patterns of fraud or abuse and implementing health care planning and related activities; applicability of penalty provisions

A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse; and

(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization.

The penalty provided in subsection (c) of this section shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information.

(c) Violations and penalties for unauthorized disclosure

It shall be unlawful for any person to disclose any such information other than for such purposes, and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than six months, or both, together with the costs of prosecution.

(d) Nondisclosure of patient records in civil actions

No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(h), 91 Stat. 1189.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142, § 5(h)(1), (2), added cl. (3) and substituted ", (2)" for "or (2)".

Subsec. (b). Pub. L. 95-142 § 5(h)(3), (4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-142, § 5(h)(3), redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 95-142, § 5(h)(5), added subsec. (d).

§ 1320c-16. Limitation of liability

(a) Persons providing information to Professional Standards Review Organizations and Statewide Professional Standards Review Councils

Notwithstanding any other provision of law, no person providing information to any Professional Standards Review Organization or to any Statewide Professional Standards Review Council shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) unless—

(1) such information is unrelated to the performance of the duties and functions of such Organization or such Council, or

(2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

(b) Members and employees of Professional Standards Review Organizations and Statewide Professional Standards Review Councils

(1) No individual who, as a member or employee of any Professional Standards Review Organization or of any Statewide Professional Standards Review Council or who furnishes professional counsel or services to such organization or council, shall be held by reason of the performance by him of any duty, function, or activity authorized or required of Professional Standards Review Organizations or of Statewide Professional Standards Review Councils under this part, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

[*See main edition for text of* (2)]

(c) Health care practitioners and providers

[*See main edition for text of* (c)]

(d) Reimbursement for expenses of defense of any suit, action, or proceeding brought against Professional Standards Review Organization, or member or employee

The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function of such organization, member, or employee (as described in section 1320c-4 of this title).

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(i), (n), 91 Stat. 1190, 1191.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142, § 5(n)(1), (2), added provisions relating to applicability to Statewide Professional Standards Review Councils.

Subsec. (b)(1). Pub. L. 95-142, § 5(n)(3) to (5), added provisions relating to applicability to Statewide Professional Standards Review Councils.

Subsec. (d). Pub. L. 95-142, § 5(i), added subsec. (d).

§ 1320c-17. Authorization for use of funds for administering professional review program; transfer of moneys between funds; payments for Professional Standards Review Organizations

Expenses incurred in the administration of this part shall be payable from—

(a) funds in the Federal Hospital Insurance Trust Fund;

(b) funds in the Federal Supplementary Medical Insurance Trust Fund; and

(c) funds appropriated to carry out the health care provisions of the several subchapters of this chapter;

in such amounts from each of the sources of funds (referred to in subsections (a), (b), and (c) of this section) as the Secretary shall deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs. The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses. The Secretary shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 5(j), 91 Stat. 1190.)

AMENDMENTS

1977—Pub. L. 95-142 added provisions relating to authorization of Secretary to make payments to Professional Standards Review Organizations.

§ 1320c-20. Federal-State relations

(a) Memorandum of understanding between Professional Standards Review Organization and State agency as prerequisite for conclusiveness of determinations of Organization; waiver

(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1320c-4(a) of this title in connection with reviews shall constitute conclusive determinations under section 1320c-7(c) of this title for purposes of payment under subchapter XIX of this chapter, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under subchapter XIX of this chapter for the State in which the organization is located (hereinafter in this section re-

ferred to as the "State agency") for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, and for administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

(b) Specification by Organization of review goals and methods in memorandum of understanding; procedures applicable

(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum to the extent that the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of subchapter XIX of this chapter and the State's plan approved under such subchapter, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under subchapters XVIII and XIX of this chapter.

(c) Contract by State agency and Organization for performance of additional review responsibilities by Organization; reimbursement as expense of State agency

Notwithstanding any other provision of this chapter, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1396b(a) of this title) if—

(1) the State agency formally requests the performance of such additional responsibilities, and

(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under subchapter XIX of this chapter.

(d) State monitoring plans for State agency oversight of Organization and performance of review responsibilities; development, approval, and contents; criteria and procedure for suspension of authority of Organization by Secretary

(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accordance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1396b(a) of this title.

(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under subchapter XIX of this chapter and on the appropriateness of care received by individuals under the State's plan approved under such subchapter, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, make a determination as to the reasonableness of the allegation by the State agency. If the Secretary determines that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under subchapter XIX of this chapter and on the appropriateness of care received by individuals under the State's plan approved under such subchapter, unless the Secretary determines that the organization has taken appropriate corrective action, he shall immediately suspend such organization's authority in whole or in part under section 1320c-7(c) of this title to make conclusive determinations for purposes of payment under subchapter XIX of this chapter (and he may suspend such authority for purposes of payment under subchapter XVIII of this chapter) until he (i) reevaluates such organization's performance of the responsibilities involved and determines that such performance does not have such unreasonable and detrimental impact, or (ii) determines that the organization has taken appropriate corrective action. Any determination made by the Secretary under this subparagraph shall be final and shall not be subject to judicial review.

(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his de-

termination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

(e) Establishment by Secretary of procedures and mechanisms to govern relations with State agencies; requirements for procedures and mechanisms; disclosure of information and data by Organization to State agency

(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connection with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.

(Aug. 14, 1935, ch. 531, title XI, § 1171, as added Oct. 25, 1977, Pub. L. 95-142, § 5(d)(2)(D), 91 Stat. 1186.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1320c-7 of this title.

§ 1320c-21. Annual reports to Congress; contents

The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

(4) the total costs incurred under subchapters V, XI, XVIII, and XIX of this chapter in the implementation and operation of all procedures required by such subchapters for the review of services to determine their medical necessity, appropriateness of use, and quality;

(5) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

(6) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

(7) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

(8) recommendations for legislative changes.

(Aug. 14, 1935, ch. 531, title XI, § 1172, as added Oct. 25, 1977, Pub. L. 95-142, § 5(k), 91 Stat. 1190.)

§ 1320c-22. Medical officers in American Samoa, Northern Mariana Islands, and the Trust Territory of the Pacific Islands includable in program

For purposes of applying this part (except sections 1320c-4(c) and 1320c-12 of this title) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.

(Aug. 14, 1935, ch. 531, title XI, § 1173, as added Oct. 25, 1977, Pub. L. 95-142, § 5(*l*)(1), 91 Stat. 1191.)

SUBCHAPTER XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 602, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1382c, 1395v, 1396a, 1396b, 1396d, 1397b of this title.

SUBCHAPTER XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 401, 428, 602, 909, 1301, 1306a, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1382c, 1395v, 1395z, 1396a, 1396b, 1396d, 1397a, 1397b, 1397c, 1397f, 6862 of this title; title 7 sections 2012, 2015, 2026; title 29 section 981; title 48 section 1421q.

PART A—DETERMINATION OF BENEFITS

§ 1382a. Income; definition of earned and unearned income; exclusions from income

[*See main edition for text of* (a)]

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

[*See main edition for text of* (1) *to* (9)]

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(11) assistance received under the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.] or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President; and

(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period).

(As amended Nov. 12, 1977, Pub. L. 95-171, § 8(a), 91 Stat. 1355.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-171 added par. (12).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 8(b) of Pub. L. 95-171 provided that: "The amendment made by this section [enacting subsec. (b)(12) of this section] shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section [enacting subsec. (b)(12) of this section] shall be effective the first day of the calendar quarter following enactment of this Act [Nov. 12, 1977]."

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2(b) of Pub. L. 94-331, as amended by Pub. L. 95-171, § 6(a), Nov. 12, 1977, 91 Stat. 1355, effective the first day of calendar quarter following Nov. 12, 1977, provided that: "The Amendments made by this Act [amending subsec. (b)(11) of this section and sections 815, 3402, 6153, and 6154 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 815 and 3402 of Title 26] shall be applicable only in the case of catastrophes which occur on or after June 1, 1976."

Section 4(b) of Pub. L. 94-331, as amended by Pub. L. 95-171, § 7(a), Nov. 12, 1977, 91 Stat. 1355, effective the first day of calendar quarter following Nov. 12, 1977, provided that: "The amendments made by this Act [see Effective Date note above] shall be applicable only in the case of catastrophes which occur on or after June 1, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382, 1382b, 1382e of this title.

§ 1382b. Resources; exclusions from resources; disposition of resources

(a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

[*See main edition for text of* (1) *to* (3)]

(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan;

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 1606(h) and section 1607(c) of title 43; and

(6) assistance referred to in section 1382a(b)(11) of this title for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term "assistance" includes interest thereon which is excluded from income under section 1382a(b)(12) of this title.

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

[*See main edition for text of* (b)]

(As amended Nov. 12, 1977, Pub. L. 95-171, § 9(a), 91 Stat. 1355.)

AMENDMENTS

1977—Subsec. (a)(6). Pub. L. 95-171 added par. (6).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 9(b) of Pub. L. 95-171 provided that: "The amendment made by this section [enacting subsec. (a)(6) of this section] shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 1, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act [Nov. 12, 1977]."

§ 1382e. Supplementary assistance by State or subdivision to needy individuals

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

Section 8(c) of Pub. L. 93-233, as amended by Pub. L. 95-113, title XIII, § 1302(a)(3), Sept. 29, 1977, 91 Stat. 979, provided that: "For purposes of section 6(g) of the Food Stamp Act of 1977 [section 2015(g) of Title 7, Agriculture] and subsections (b)(3) [set out as a note under section 612c of Title 7] and (f) [set out as a note below] of this section, the level of State supplementary payment under section 1616(a) [subsec. (a) of this section] shall be found by the Secretary to have been specifically increased so as to include the bonus value

of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) [subsec. (a) of this section] at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 [set out as a note under this section] and which is such that the limitation on State fiscal liability under section 401 [set out as a note under this section] does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect."

Section 1302(b) of Pub. L. 95-113 provided that the amendment of section 8(c) of Pub. L. 93-233 by section 1302(a)(3) of Pub. L. 95-113 is effective Oct. 1, 1977.

ADJUSTED PAYMENT LEVEL; PAYMENT LEVEL MODIFICATION

* * * * *

Section 8(f), formerly 8(e), of Pub. L. 93-233, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990, and renumbered and amended by Pub. L. 94-379, § 1(a), (b), Aug. 10, 1976, 90 Stat. 1111; Pub. L. 95-59, § 3(2), June 30, 1977, 91 Stat. 255; Pub. L. 95-113, title XIII, § 1302(a)(4), Sept. 29, 1977, 91 Stat. 979, provided that: "The amendment made by subsection (e) [set out as a note under this section in the main edition] shall not be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act [subsec. (a) of this section] the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps."

Section 3 of Pub. L. 95-59 provided in part that the amendment of section 8(f) of Pub. L. 93-233 by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.

Section 1302(b) of Pub. L. 95-113 provided that the amendment of section 8(f) of Pub. L. 93-233 by section 1302(a)(4) of Pub. L. 95-113 is effective Oct. 1, 1977.

* * * * *

LIMITATION ON FISCAL LIABILITY OF STATES FOR PAYMENT TO SECRETARY OF SUPPLEMENTARY PAYMENTS MADE BY SECRETARY PURSUANT TO AGREEMENT

Section 401 of Pub. L. 92-603, as amended by Pub. L. 93-233, § 18(h), Dec. 31, 1973, 87 Stat. 969; Pub. L. 94-566, title V, § 504(a), Oct. 20, 1976, 90 Stat. 2686; Pub. L. 94-585 § 2(b), Oct. 21, 1976, 90 Stat. 2902, provided that:

"(a)(1) The amount payable to the Secretary by a State for any fiscal year, other than fiscal year 1974, pursuant to its agreement or agreements under section 1616 of the Social Security Act [this section] shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter] (as defined in subsection (c) of this section), and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures.

"(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

"(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

"(B) the benefits under title XVI of the Social Security Act [this subchapter] (subject to the second sentence of this paragraph), plus income not excluded under section 1612(b) of such Act [section 1382a(b) of this title] in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act [this section] to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972. In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act [section 1382f of this title] (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.

"(b)(1) For purposes of subsection (a), the term 'adjusted payment level under the appropriate approved plan of a State as in effect for January 1972' means the amount of the money payment which an individual with no other income would have received under the plan of such State approved under title I, X, XIV, or XVI of the Social Security Act [subchapters I, X, XIV, or XVI of this chapter], as may be appropriate, and in effect for January 1972; except that the State may, at its option, increase such payment level with respect to any such plan by an amount which does not exceed the sum of—

"(A) a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plan, and

"(B) the bonus value of food stamps in such State for January 1972 (as defined in paragraph (3) of this subsection).

"(2) For purposes of paragraph (1), the term 'payment level modification' with respect to any State plan means that amount by which a State which for January 1972 made money payments under such plan to individuals with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972 under the plans of such State approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter].

"(3) For purposes of paragraph (1), a State for January 1972' (with respect to the term 'bonus value of food stamps in an individual) means—

"(A) the face value of the coupon allotment which would have been provided to such an individual under the Food Stamp Act of 1964 [section 2011 et seq. of Title 7, Agriculture] for January 1972, reduced by

"(B) the charge which such an individual would have paid for such coupon allotment.

if the income of such individual, for purposes of determining the charge it would have been paid for its coupon allotment, had been equal to the adjusted payment level under the State plan (including any payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of food stamps and the cost thereof in January 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.

"(c) For purposes of this section, the term 'non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, and XVI of the Social Security Act' [subchapters I, X, XIV, and XVI of this chapter] means the difference between—

"(1) the total expenditures in such quarters under such plans for aid or assistance (excluding expenditures authorized under section 1119 of such Act [section 1319 of this title] for repairing the home of an individual who was receiving aid or assistance under one of such plans (as such section was in effect prior to the enactment of this Act)), and

"(2) the total of the amounts determined under sections 3, 1003, 1403, and 1603 of the Social Security Act [sections 303, 1203, 1353, and 1383 note of this title], under section 1118 of such Act [section 1318 of this title] and under section 9 of the Act of April 19, 1950 [section 639 of Title 25, Indians], for such State with respect to such expenditures in such quarters."

Amendment of section 401(a)(2) of Pub. L. 92-603 by Pub. L. 94-585 inserting parenthetical text in subpar. (B) and enacting last sentence, such amendments being identical to amendments by Pub. L. 94-566 less the words "and before July 1, 1979" following "June 30, 1977", effective with respect to benefits payable for months after June 1977, see section 2(c) of Pub. L. 94-585, set out as a note under section 1382g of this title.

Amendment of section 401(a)(2) of Pub. L. 92-603 by Pub. L. 94-566 inserting parenthetical text in subpar. (B) and enacting last sentence effective under provisions of Pub. L. 94-566, title V, § 504(b), Oct. 20, 1976, 90 Stat. 2686, with respect to benefits payable for months after June 1977.

Amendment by section 18(h) of Pub. L. 93-233 effective Jan. 1, 1974, see section 18(z-3)(1) of Pub. L. 93-233, set out as a note under section 1320b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1382g, 1383 of this title; title 7 sections 2012, 2015.

PART B—PROCEDURAL AND GENERAL PROVISIONS

§ 1383. Procedure for payment of benefits

PRIOR PROVISIONS

A prior section 1383, act Aug. 14, 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89-97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92-512, title III, § 301(b), (d), (e), 86 Stat. 946, 947, related to the determination of amounts payable to the states, and was omitted in the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301, but is set out as a note below in view of its continued applicability to Puerto Rico, Guam, and the Virgin Islands.

HEARING EXAMINERS APPOINTED PRIOR TO JANUARY 2, 1976, DEEMED APPOINTED TO CAREER-ABSOLUTE POSITIONS

Pub. L. 95-216, title III, § 371, Dec. 20, 1977, 91 Stat. 1559, provided that: "The persons who were appointed to serve as hearing examiners under section 1631(d)(2) of the Social Security Act [subsec. (d)(2) of this section] (as in effect prior to January 2, 1976), and who by section 3 of Public Law 94-202 [set out as a note under this section in the 1976 Edition of this Code] were deemed to be appointed under section 3105 of title 5, United States Code (with such appointments terminating no later than at the close of the period ending December 31, 1978), shall be deemed appointed to career-absolute positions as hearing examiners under and in accordance with section 3105 of title 5, United States Code, with the same authority and tenure (without regard to the expiration of such period) as hearing examiners appointed directly under such section 3105, and shall receive compensation at the same rate as hearing examiners appointed by the Secretary of Health, Education, and Welfare directly under such section 3105. All of the provisions of title 5, United States Code and the regulations promulgated pursuant thereto, which are applicable to hearing examiners appointed under such section 3105, shall apply to the persons described in the preceding sentence."

REIMBURSEMENT FOR ERRONEOUS STATE SUPPLEMENTARY PAYMENTS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-216, title IV, § 405, Dec. 20, 1977, 91 Stat. 1564, provided that:

"(a) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized and directed to pay to each State an amount equal to the amount expended by such State for erroneous supplementary payments to aged, blind, or disabled individuals whenever, and to the extent to which, the Secretary through an audit by the Department of Health, Education, and Welfare which has been reviewed and concurred in by the Inspector General of such department determines that—

"(1) such amount was paid by such State as a supplementary payment during the calendar year 1974 pursuant to an agreement between the State and the Secretary required by section 212 of the Act entitled 'An Act to extend the Renegotiation Act of 1951 for one year, and for other purposes', approved July 9, 1973, [set out as a note under section 1382 of this title], or such amount was paid by such State as an optional State supplementation, as defined in section 1616 of the Social Security Act [section 1382 of this title], during the calendar year 1974,

"(2) the erroneous payments were the result of good faith reliance by such State upon erroneous or incomplete information supplied by the Department of Health, Education, and Welfare, through the State data exchange, or good faith reliance upon incorrect supplemental security income benefit payments made by such department, and

"(3) recovery of the erroneous payments by such State would be impossible or unreasonable.

"(b) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 909, 1306a, 1318, 1319, 1396a of this title.

SUBCHAPTER XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247d, 254c, 254e, 254h, 300e-6, 401, 426, 705, 706, 907a, 1301, 1306, 1320a-1, 1320a-2, 1320a-3, 1320a-5, 1320c-9, 1320c-14, 1320c-20, 1320c-21, 1353, 1395x, 1395gg, 1396a, 1396b, 1396i, 1397a, 2689e, 3524 of this title; title 7 section 3178; title 12 section 1715w; title 38 sections 4108, 5053; title 45 section 231r.

§ 1395b-1. Incentives for economy while maintaining or improving quality in the provision of health services

(a) Grants and contracts to develop and engage in experiments and demonstration projects

(1) The Secretary of Health, Education, and Welfare is authorized, either directly or

through grants to public or nonprofit private agencies, institutions, and organizations or contracts with public or private agencies, institutions, and organizations, to develop and engage in experiments and demonstration projects for the following purposes:

[*See main edition for text of (A) to (G)*]

(H) to establish an experimental program to provide day-care services, which consist of such personal care, supervision, and services as the Secretary shall by regulation prescribe, for individuals eligible to enroll in the supplemental medical insurance program established under part B of this subchapter and subchapter XIX of this chapter, in day-care centers which meet such standards as the Secretary shall by regulation establish;

(I) to determine whether the services of clinical psychologists may be made more generally available to persons eligible for services under this subchapter and subchapter XIX of this chapter in a manner consistent with quality of care and equitable and efficient administration; and

(J) to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by this chapter.

For purposes of this subsection, "health programs established by this chapter" means the program established by this subchapter, a program established by a plan of a State approved under subchapter XIX of this chapter, and a program established by a plan of a State approved under subchapter V of this chapter.

[*See main edition for text of (2); (b)*]

(As amended Pub. L. 95-142, § 17(d), Oct. 25, 1977, 91 Stat. 1202.)

AMENDMENTS

1977—Subsec. (a)(1)(J). Pub. L. 95-142 added subsec. (a)(1)(J).

DEMONSTRATION PROJECTS FOR PHYSICIAN-DIRECTED CLINICS IN URBAN MEDICALLY UNDERSERVED AREAS; REPORT SUBMITTED NO LATER THAN JANUARY 1, 1981

Pub. L. 95-210, § 3, Dec. 13, 1977, 91 Stat. 1489, provided that:

"(a) The Secretary shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act [this subchapter] and, notwithstanding any other provision of such title, for services provided by a physician assistant or nurse practitioner employed by such clinics which would otherwise be covered under such title if provided by a physician.

"(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

"(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing a physician assistant or nurse practitioner;

"(2) the appropriate method of determining the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

"(3) the appropriate definition for such clinics;

"(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

"(5) such other possible changes in the provisions of title XVIII of the Social Security Act [this subchapter] as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

"(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act [section 1395i of this title] and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act [section 1395t of this title]). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary giving due regard to the purposes of the demonstration projects.

"(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

"(e) As used in this section, the terms 'physician assistant' and 'nurse practitioner' have the meanings given such terms in section 1861(aa)(3) of the Social Security Act [section 1395x of this title]."

PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 294v, 402, 417, 426, 426a, 429, 907, 1320a-3, 1320b-1, 1395*l*, 1395*o*, 1395p, 1395u, 1395x, 1395y, 1395aa, 1395cc, 1395ff, 1395*ll*, 1395mm, 1395pp, 1396b of this title; title 45 section 231f.

§ 1395f. Conditions of and limitations on payment for services

[*See main edition for text of (a) and (b)*]

(c) No payments to Federal providers of services

Subject to section 1395qq of this title, no payment may be made under this part (except under subsection (d) or subsection (j) of this section) to any Federal provider of services, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.

[*See main edition for text of (d) to (i)*]

(j) Payment for specified hospital services provided in Veterans' Administration hospitals; amount of payment

(1) Payments shall also be made to any hospital operated by the Veterans' Administration

for inpatient hospital services furnished in a calendar year by the hospital, or under arrangements (as defined in section 1395x(w) of this title with it, to an individual entitled to hospital benefits under section 426 of this title even though the hospital is a Federal provider of services if (A) the individual was not entitled to have the services furnished to him free of charge by the hospital, (B) the individual was admitted to the hospital in the reasonable belief on the part of the admitting authorities that the individual was a person who was entitled to have the services furnished to him free of charge, (C) the authorities of the hospital, in admitting the individual, and the individual, acted in good faith, and (D) the services were furnished during a period ending with the close of the day on which the authorities operating the hospital first became aware of the fact that the individual was not entitled to have the services furnished to him by the hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove the individual from the hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this subchapter.

(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf of such individual).

(As amended Oct. 25, 1977, Pub. L. 95-142, § 23(a), (b), 91 Stat. 1208.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-142, § 23(a), added reference to subsec. (j) of this section.

Subsec. (j). Pub. L. 95-142, § 23(b), added subsec. (j).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 23(c) of Pub. L. 95-142 provided that: "The amendments made by this section [amending subsec. (c) of this section and adding subsec. (j) of this section] shall apply to inpatient hospital services furnished on and after July 1, 1974."

§ 1395g. Payments to providers of services; conditions; amount; payments under assignment or power of attorney

[*See main edition for text of* (a) *and* (b)]

(c) No payment which may be made to a provider of services under this subchapter for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for on [1] in connection with the billing or collection of payments due such provider under this subchapter is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 2(a)(2), 91 Stat. 1175.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-142 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2(a)(4) of Pub. L. 95-142 provided that: "The amendments made by this subsection [adding subsec. (c) of this section and amending sections 1395u and 1396a(a)(32) of this title] shall apply with respect to care and services furnished on or after the date of the enactment of this Act [Oct. 25, 1977]."

§ 1395h. Use of public or private agencies or organizations to facilitate payment to providers of services.

(a) Authorization for agreement by Secretary for implementation; scope of agreement

If any group or association of providers of services wishes to have payments under this part to such providers made through a national, State, or other public or private agency or organization and nominates such agency or organization for this purpose, the Secretary is authorized to enter into an agreement with such agency or organization providing for the determination by such agency or organization (subject to the provisions of section 1395*oo* of this title and to such review by the Secretary as may be provided for by the agreement) of the amount of the payments required pursuant to this part to be made to such providers (and to providers assigned to such agency or organization under subsection (e) of this section), and for the making of such payments by such agency or organization to such providers (and to providers assigned to such agency or organization under subsection (e) of this section). Such agreement may also include provision for the agency or organization to do all or any part of the following: (1) to provide consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as hospitals, extended care facilities, or home-health agencies, and (2) with respect to the providers of services which are to receive payments through it (A) to serve as a center for, and communicate to providers, any information or instructions furnished to it by the Secretary, and serve as a channel of communication from providers to the Secretary; (B) to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part; and (C) to perform such other functions as are necessary to carry out this subsection.

[1] So in original. Probably should be "or".

(b) Prerequisites for agreement or renewal of agreement by Secretary

The Secretary shall not enter into or renew an agreement with any agency or organization under this section unless—

(1) he finds—

(A) after applying the standards, criteria, and procedures developed under subsection (f) of this section, that to do so is consistent with the effective and efficient administration of this part, and

(B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 426 of this title, and the agreement provides for such assistance; and

(2) such agency or organization agrees—

(A) to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section, and

(B) to provide the Secretary with access to all such data, information, and claims processing operations,

as the Secretary may find necessary in performing his functions under this part.

[*See main edition for text of* (c) *and* (d)]

(e) Assignment or reassignment by Secretary of provider of services; designation by Secretary of agency or organization to perform services for provider of services; procedures applicable to assignment or reassignment, or designation

(1) Notwithstanding subsections (a) and (d) of this section, the Secretary, after taking into consideration any preferences of providers of services, may assign or reassign any provider of services to any agency or organization which has entered into an agreement with him under this section, if he determines, after applying the standards, criteria, and procedures developed under subsection (f) of this section, that such assignment or reassignment would result in the more effective and efficient administration of this part.

(2) Notwithstanding subsections (a) and (d) of this section, the Secretary may designate a national or regional agency or organization which has entered into an agreement with him under this section to perform functions under the agreement with respect to a class of providers of services in the Nation or region (as the case may be), if he determines, after applying the standards, criteria, and procedures developed under subsection (f) of this section, that such designation would result in more effective and efficient administration of this part.

(3)(A) Before the Secretary makes an assignment or reassignment under paragraph (1) of a provider of services to other than the agency or organization nominated by the provider, he shall furnish (i) the provider and such agency or organization with a full explanation of the reasons for his determination as to the efficiency and effectiveness of the agency or organization to perform the functions required under this part with respect to the provider, and (ii) such agency or organization with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5.

(B) Before the Secretary makes a designation under paragraph (2) with respect to a class of providers of services, he shall furnish (i) such providers and the agencies and organizations adversely affected by such designation with a full explanation of the reasons for his determination as to the efficiency and effectiveness of such agencies and organizations to perform the functions required under this part with respect to such providers, and (ii) the agencies and organizations adversely affected by such designation with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5.

(f) Development of standards, criteria, and procedures by Secretary for evaluation of agency or organization performance

In order to determine whether the Secretary should enter into, renew, or terminate an agreement under this section with an agency or organization, whether the Secretary should assign or reassign a provider of services to an agency or organization, and whether the Secretary should designate an agency or organization to perform services with respect to a class of providers of services, the Secretary shall develop standards, criteria, and procedures to evaluate such agency's or organization's (1) overall performance of claims processing and other related functions required to be performed by such an agency or organization under an agreement entered into under this section, and (2) performance of such functions with respect to specific providers of services, and the Secretary shall establish, by regulation, standards and criteria with respect to the efficient and effective administration of ths part. No agency or organization shall be found under such standards and criteria not to be efficient or effective or to be less efficient or effective solely on the ground that the agency or organization serves only providers located in a single State.

(g) Termination of agreement; procedures applicable

An agreement with the Secretary under this section may be terminated—

(1) by the agency or organization which entered into such agreement at such time and upon such notice to the Secretary, to the public, and to the providers as may be provided in regulations, or

(2) by the Secretary at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if he finds after applying the standards, criteria, and procedures developed under subsection (f) of this section and after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is dis-

advantageous or is inconsistent with the efficient administration of this part.

(h) Bonding requirement under agreement for officers and employees of agency or organization

An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(i) Liability of certifying and disbursing officers designated under agreement for negligent, etc., payments

(1) No individual designated pursuant to an agreement under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1).

(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) or (2).

(As amended Oct. 25, 1977, Pub. L. 95-142, § 14(a), 91 Stat. 1198.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142, § 14(a)(1), added provisions relating to applicability to providers assigned to the agency or organization under subsec. (e) of this section.

Subsec. (b). Pub. L. 95-142, § 14(a)(2), substituted provisions setting forth criteria for agreements by the Secretary or renewal of such agreements with agencies or organizations, for provisions setting forth criteria for agreements by the Secretary with agencies or organizations.

Subsec. (e). Pub. L. 95-142, § 14(a)(4), (5), added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95-142, § 14(a)(4), (5), added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 95-142, § 14(a)(3), (4), redesignated former subsec. (e) as (g) and, as so redesignated, added provisions relating to applicability of standards, etc., developed under subsec. (f) of this section. Former subsec. (g) redesignated (i).

Subsecs. (h), (i). Pub. L. 95-142, § 14(a)(4), redesignated former subsecs. (f) and (g) as (h) and (i), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 14(c) and (d) of Pub. L. 95-142 provided that:

"(c) The amendment made by paragraphs (2) and (3) of subsection (a) [amending subsecs. (b) and (g)(2) of this section, respectively] to the extent that they require application of standards, criteria, and procedures developed under section 1816(f) of the Social Security Act [subsec. (f) of this section] shall apply to the entering into, renewal, or termination of agreements on and after October 1, 1978.

"(d) Except as provided in subsection (c), the amendment made by subsection (a)(2) [amending subsec. (b) of this section] shall apply to agreements entered into or renewed on or after the date of enactment of this Act [Oct. 25, 1977]."

DEVELOPMENTAL DATE FOR STANDARDS, CRITERIA, AND PROCEDURES PURSUANT TO SUBSEC. (f) OF THIS SECTION

Section 14(b) of Pub. L. 95-142 provided that: "The Secretary of Health, Education, and Welfare shall develop the standards, criteria, and procedures described in subsection (f) of section 1816 of the Social Security Act (as added by subsection (a)(5)) [subsec. (f) of this section] not later than October 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320a-3, 1320c-7, 1320c-14, 1395u, 1395mm, 1395oo of this title.

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 294v, 303, 426, 1320a-3, 1395b-1, 1395i-2, 1395x, 1395y, 1395cc, 1395ff, 1395*ll*, 1395mm, 1395pp, 1396a, 1396b of this title; title 26 section 213.

§ 1395k. Scope of benefits; definitions

AMENDMENT OF SUBSECTION (a)

Pub. L. 95-210, § 1(a), (j), Dec. 13, 1977, 91 Stat. 1485, 1488, provided that effective with respect to services rendered on or after the first day of the third calendar month which begins after Dec. 13, 1977, subsec. (a) of this section is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2):

"(D) rural health clinic services."

§ 1395*l*. Payment of benefits

[*See main edition for text of (a) to (e)*]

(f) Purchase or rental of durable medical equipment; presumptions regarding costliness, etc., for determination of purchase versus rental; manner of payment; waiver of coinsurance amount in purchase of used equipment; reimbursement agreements with, and priorities applicable to, suppliers

(1) In the case of durable medical equipment to be furnished an individual as described in section 1395x(s)(6) of this title, the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need), whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such

determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this subchapter or would create an undue financial hardship on the individual who will use it.

(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) of this section whenever the purchase price of the used equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

(4) The Secretary shall encourage suppliers of durable medical equipment to make their equipment available to individuals entitled to benefits under this subchapter on a lease-purchase basis whenever possible.

[*See main edition for text of* (*g*) *and* (*h*)]

(As amended Oct. 25, 1977, Pub. L. 95-142, § 16(a), 91 Stat. 1200.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 95-210, § 1(b), (j), Dec. 13, 1977, 91 Stat. 1485, 1488, provided that, effective with respect to services rendered on or after the first day of the third calendar month which begins after Dec. 13, 1977, subsec. (a) of this section is amended—

(1) by striking out "and" at the end of par. (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1395k(a)(2) of this title" in par. (2) after "1395k(a)(2) of this title";

(3) by striking out the period at the end of par. (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after par. (2):

"(3) in the case of services described in section 1395k(a)(2)(D) of this title, 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1395x(v)(1)(A) of this title."

AMENDMENTS

1977—Subsec. (f)(1). Pub. L. 95-142 substituted provisions relating to determinations by the Secretary with respect to presumptions regarding the purchase price or practicality of buying or renting durable medical equipment, for provisions relating to the purchase price of durable medical equipment authorized to be paid by the Secretary.

Subsec. (f)(2). Pub. L. 95-142 substituted provisions relating to waiver of the coinsurance amount in the purchase of used durable medical equipment, for provisions relating to reimbursement procedures established by the Secretary in cases of rental of durable medical equipment.

Subsec. (f)(3), (4). Pub. L. 95-142 added subsec. (f)(3) and (4).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 16(b) of Pub. L. 95-142 provided that: "The amendment made by subsection (a) [amending subsec. (f) of this section] shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977."

STUDY OF FEASIBILITY AND DESIRABILITY OF IMPOSING COPAYMENT REQUIREMENT ON RURAL HEALTH CLINIC VISITS; REPORT NOT LATER THAN DECEMBER 13, 1978

Section 1(c) of Pub. L. 95-210 provided that: "The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall conduct a study of the feasibility and desirability of imposing a copayment for each visit to a rural health clinic for rural health clinic services under part B of title XVIII of the Social Security Act [this part], instead of the deductible and coinsurance amounts otherwise required under section 1833 of such Act [this section] with respect to the provision of such services. The Secretary shall report to the appropriate committees of Congress, not later than one year after the date of enactment of this Act [Dec. 13, 1977], on such study and on any recommendations he may have for changes in the provisions of part B of title XVIII of the Social Security Act [this part] to reflect the findings of such study."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395n, 1395cc, 1395mm, 1396a of this title.

§ 1395r. Amount of premiums for individuals enrolled under this part

AMENDMENT OF SUBSECTION (c)(3)(B)

Pub. L. 95-216, title II, § 205(e), Dec. 20, 1977, 91 Stat. 1529, provided that, effective with respect to monthly benefits under subchapter II of this chapter payable for months after Dec. 1978 and lump-sum death payments with respect to deaths occurring after such month, subsec. (c)(3)(B) of this section is amended to read as follows:

(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 415(a)(1) of this title, based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on May 1 of the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following May 1.

§ 1395u. Use of carriers for administration of benefits

[*See main edition for text of* (*a*)]

(b) Applicability of competitive bidding provisions; findings as to financial responsibility, etc., of carrier; contractual duties imposed by contract

[*See main edition for text of* (*1*) *and* (*2*)]

(3) Each such contract shall provide that the carrier—

[*See main edition for text of (A) to (E)*]

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services. No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the twelve-month period (beginning July 1 of each year) in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1395x(s)(6) of this title, charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this subchapter and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the twelve-month period beginning on July 1, in any calendar year after 1974 shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

[*See main edition for text of (4)*]

(5) No payment under this part for a service provided to any individual shall (except as provided in section 1395gg of this title) be made to anyone other than such individual or (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) the physician or other person who provided the service, except that payment may be made (A) to the employer of such physician or other person if such physician or other person is required as a condition of his employment to turn over his fee for such service to his employer, or (B) (where the service was provided in a hospital, clinic, or other facility) to the facility in which the service was provided if there is a contractual arrangement between such physician or other person and such facility under which such facility submits the bill for such service. No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this subchapter is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.

[*See main edition for text of (c) to (g)*]

(As amended Oct. 25, 1977, Pub. L. 95-142, § 2(a)(1), 91 Stat. 1175; Dec. 20, 1977, Pub. L. 95-216, title V, § 501(b), 91 Stat. 1565.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-216 provided that, with respect to power-operated wheelchairs for which

payment may be made in accordance with section 1395x(s)(6) of this title, charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality.

Subsec. (b)(5). Pub. L. 95-142 added provisions relating to payments under a reassignment or power of attorney in cases other than direct payments to physicians or service providers.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-216 effective in the case of items and services furnished after Dec. 20, 1977, see section 501(c) of Pub. L. 95-216, set out as an Effective Date of 1977 Amendment note under section 1395x of this title.

Amendment by Pub. L. 95-142 applicable with respect to care and services furnished on or after Oct. 25, 1977, see section 2(a)(4) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1395g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1320a-3, 1320c-7, 1320c-14, 1395t, 1395v, 1395mm, 1395nn, 1395pp, 1396b of this title.

PART C—MISCELLANEOUS PROVISIONS

§ 1395x. Definitions

For purposes of this subchapter—

[*See main edition for text of (a) to (i)*]

(j) Skilled nursing facility

The term "skilled nursing facility" means (except for purposes of subsection (a)(2) of this section) an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (*l*) of this section) with one or more hospitals having agreements in effect under section 1395cc of this title and which—

[*See main edition for text of (1) to (10)*]

(11) complies with the requirements of section 1320a-3 of this title;

[*See main edition for text of (12) to (15)*]

except that such term shall not (other than for purposes of subsection (a)(2) of this section) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term "skilled nursing facility" also includes an institution described in paragraph (1) of subsection (y) of this section, to the extent and subject to the limitations provided in such subsection. To the extent that paragraph (6) of this subsection may be deemed to require that any skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if he finds that—

(A) such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein.

(B) such facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

(C) such facility (i) has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or (ii) has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

[*See main edition for text of (k) to (r)*]

(s) Medical and other health services

The term "medical and other health services" means any of the following items or services:

[*See main edition for text of (1) to (5)*]

(6) durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition.

No diagnostic tests performed in any laboratory which is independent of a physician's office or a hospital (which, for purposes of this sentence, means an institution considered a hospital for purposes of section 1395f(d) of this title) shall be included within paragraph (3) unless such laboratory—

(10) if situated in any State in which State or applicable local law provides for licensing of establishments of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing establishments of this nature, as meeting the standards established for such licensing; and

(11) meets such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2)(C) any item or service (except services referred to in paragraph (1)) which—

(12) would not be included under subsection (b) of this section if it were furnished to an inpatient of a hospital; or

(13) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

None of the items and services referred to in the preceding paragraphs (other than paragraphs (1) and (2)(A)) of this subsection which are furnished to a patient of an institution which meets the definition of a hospital for purposes of section 1395f(d) of this title shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of individuals with respect to whom such items and services are furnished.

[*See main edition for text of* (*t*) *and* (*u*)]

(v) Reasonable cost; semi-private accommodations

(1) [*See main edition for text of* (*A*) *to* (*E*)]

(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1320a(a) of this title in accordance with the uniform reporting system (established under such section) for that type of provider.

[*See main edition for text of* (*2*) *to* (*7*)]

(w) Arrangements for certain services; payments pursuant to arrangements for utilization review activities

[*See main edition for text of* (*1*)]

(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of subchapter XI of this chapter with respect to services furnished by a hospital to patients insured under part A of this subchapter or entitled to have payment made for such services under part B of this subchapter or under a State plan approved under subchapter V or XIX of this chapter, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.

[*See main edition for text of* (*x*) *to* (*z*)]

(As amended Oct. 25, 1977, Pub. L. 95-142, §§ 3(a)(2), 5(m), 19(b)(1), 91 Stat. 1178, 1191, 1204; Dec. 20, 1977, Pub. L. 95-216, title V, § 501(a), 91 Stat. 1564.)

AMENDMENT OF SUBSECTIONS (j) AND (s); ADDITION OF SUBSECTION (aa)

Section 21(a) and (c)(1) of Pub. L. 95-142 provided that, effective on the first day of the first calendar quarter which begins more than six months after Oct. 25, 1977, subsec. (j) of this section is amended by striking out "and" at the end of par. (13) and inserting the following new paragraph:

(14) establishes and maintains a system that (A) assures a full and complete accounting of its patients' personal funds, and (B) includes the use of such separate account for such funds as will preclude any commingling of such funds with facility funds or with the funds of any person other than another such patient; and

Pub. L. 95-210, § 1(g), (h), and (j), Dec. 13, 1977, 91 Stat. 1487, 1488, provided that, effective with respect to services rendered on or after the first day of the third calendar month which begins after Dec. 13, 1977, subsec. (s) of this section is amended—

(1) by striking out "and" at the end of subpar. (2)(C)(ii);

(2) by inserting "and" at the end of subpar. (2)(D);

(3) by adding the following new subparagraph after subpar. (2)(D):

"(E) rural health clinic services;"; and

(4) by inserting ", a rural health clinic," after "physician's office" in the second sentence.

Pub. L. 95-210, § 1(d) and (j), Dec. 13, 1977, 91 Stat. 1485, 1488, provided that, effective with respect to services rendered on or after the first day of the third calendar month which begins after Dec. 31, 1977, a new subsec. (aa) is added at the end to read as follows:

(aa) Rural health clinic services

(1) The term "rural health clinic services" means—

(A) physicians' services and such services and supplies as are covered under subsection (s)(2)(A) of this section if furnished as an incident to a physician's professional service,

(B) such services furnished by a physician assistant or by a nurse practitioner and such services and supplies furnished as an incident to his service as would otherwise be covered if furnished by a physician or as an incident to a physician's service, and

(C) in the case of a rural health clinic located in an area in which there exists a shortage of home health agencies, part-time or intermittent nursing care and related medical supplies (other than drugs and biologicals) furnished by a registered professional nurse or licensed practical nurse to a homebound individual under a written plan of treatment (i) established and periodically reviewed by a

physician described in paragraph (2)(B), or (ii) established by a nurse practitioner or physician assistant and periodically reviewed and approved by a physician described in paragraph (2)(B),

when furnished to an individual as an outpatient of a rural health clinic.

(2) The term "rural health clinic" means a facility which—

(A) is primarily engaged in furnishing to outpatients services described in subparagraphs (A) and (B) of paragraph (1);

(B) in the case of a facility which is not a physician-directed clinic, has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) of this section under which provision is made for the periodic review by such physicians of covered services furnished by physician assistants and nurse practitioners, the supervision and guidance by such physicians of physician assistants and nurse practitioners, the preparation by such physicians of such medical orders for care and treatment of clinic patients as may be necessary, and the availability of such physicians for such referral of and consultation for patients as is necessary and for advice and assistance in the management of medical emergencies; and, in the case of a physician-directed clinic, has one or more of its staff physicians perform the activities accomplished through such an arrangement;

(C) maintains clinical records on all patients;

(D) has arrangements with one or more hospitals, having agreements in effect under section 1395cc of this title, for the referral and admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

(E) has written policies, which are developed with the advice of (and with provision for review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more physician assistants or nurse practitioners, to govern those services described in paragraph (1) which it furnishes;

(F) has a physician, physician assistant, or nurse practitioner responsible for the execution of policies described in subparagraph (E) and relating to the provision of the clinic's services;

(G) directly provides routine diagnostic services, including clinical laboratory services, as prescribed in regulations by the Secretary, and has prompt access to additional diagnostic services from facilities meeting requirements under this subchapter;

(H) in compliance with State and Federal law, has available for administering to patients of the clinic at least such drugs and biologicals as are determined by the Secretary to be necessary for the treatment of emergency cases (as defined in regulations) and has appropriate procedures or arrangements for storing, administering, and dispensing any drugs and biologicals;

(I) has appropriate procedures for review of ultilization of clinic services to the extent that the Secretary determines to be necessary and feasible; and

(J) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For the purposes of this subchapter, such term includes only a facility which (i) is located in an area that is not an urbanized area (as defined by the Bureau of the Census) and that is designated by the Secretary either (I) as an area with a shortage of personal health services under section 300e-1(7) of this title or (II) as a health manpower shortage area described in section 254e(a)(1)(A) of this title because of its shortage of primary medical care manpower, (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this subchapter, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a) and (b) of section 1395l of this title, (iii) employs a physician assistant or nurse practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases. A facility that is in operation and qualifies as a rural health clinic under this subchapter or subchapter XIX of this chapter and that subsequently fails to satisfy the requirement of clause (i) shall be considered, for purposes of this subchapter and subchapter XIX of this chapter, as still satisfying the requirement of such clause.

(3) The term "physician assistant" and the term "nurse practitioner" mean, for the purposes of paragraphs (1) and (2), a physician assistant or nurse practitioner who performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law), and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.

AMENDMENTS

1977—Subsec. (j)(11). Pub. L. 95-142, § 3(a)(2), substituted provisions relating to compliance with requirements of section 1320a-3 of this title, for provisions relating disclosure of ownership, corporate status, etc., information to the Secretary or his delegate.

Subsec. (s)(6). Pub. L. 95-216 added "(which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe)" following "wheelchairs".

Subsec. (v)(1)(F). Pub. L. 95-142, § 19(b)(1), added subsec. (v)(1)(F).

Subsec. (w)(2). Pub. L. 95-142, § 5(m), added "part B of this subchapter or under" following "or entitled to have payment made for such services under".

EFFECTIVE DATE OF 1977 AMENDMENTS

Section 501(c) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsec. (s)(6) of this section and section 1395u(b)(3) of this title] shall be effective in the case of items and services furnished after the date of the enactment of this Act [Dec. 20, 1977]."

Amendment of subsec. (j)(11) by section 3(a)(2) of Pub. L. 95-142 effective on Oct. 25, 1977, see section 3(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-3 of this title.

Amendment of subsec. (v)(1)(F) by section 19(b)(1) of Pub. L. 95-142 effective with respect to operation of a hospital, skilled nursing facility, or intermediate care facility on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established under section 1320a(a) of this title for that type of health services facility, except that for other types of facilities or organizations effective with respect to operations on and after the first day of its first fiscal year which begins after such date as the Secretary determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization, see section 19(c)(2) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1396a of this title.

PRIVATE, NONPROFIT HEALTH CARE CLINICS QUALIFYING, AS OF JULY 1, 1977, AS RURAL HEALTH CLINICS

Section 1(e) of Pub. L. 95-210 provided that: "Any private, nonprofit health care clinic that—

"(1) on July 1, 1977, was operating and located in an area which on that date (A) was not an urbanized area (as defined by the Bureau of the Census) and (B) had a supply of physicians insufficient to meet the needs of the area (as determined by the Secretary), and

"(2) meets the definition of a rural health clinic under section 1861(aa)(2) [subsec. (aa)(2) of this section] or section 1905(*l*) of the Social Security Act [section 1396d(*l*) of this title], except for clause (i) of section 1861(aa)(2) [subsec. (aa)(2) of this section],

shall be considered, for the purposes of title XVIII or XIX, respectively, of the Social Security Act [this subchapter or subchapter XIX of this chapter], as satisfying the definition of a rural health clinic under such section."

PROMULGATION OF REGULATIONS DEFINING COSTS CHARGEABLE TO PERSONAL FUNDS OF PATIENTS IN SKILLED NURSING FACILITIES; DATE OF ISSUANCE

Section 21(b) of Pub. L. 95-142 provided that: "The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under the provisions of title XVIII [this subchapter], or under a State plan approved under the provisions of title XIX, of the Social Security Act [subchapter XIX of this chapter], and those costs which are to be included in the reasonable cost or reasonable charge for extended care services as determined under the provisions of title XVIII, or for skilled nursing and intermediate care facility services as determined under the provisions of title XIX, of such Act."

Section 21(c)(2) of Pub. L. 95-142 provided that: "The Secretary of Health, Education, and Welfare shall issue the regulations required under subsection (b) [set out as note above] within ninety days after the date of enactment of this Act. [Oct. 25, 1977]."

HOME HEALTH SERVICES; GRANTS FOR ESTABLISHMENT, OPERATION, STAFFING, ETC., OF PUBLIC AND NONPROFIT PRIVATE AGENCIES AND ENTITIES; PROCEDURES; PAYMENTS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 94-63, title VI, § 602, July 29, 1975, 89 Stat. 346, as amended by Pub. L. 94-460, title III, § 302, Oct. 8, 1976, 90 Stat. 1960; Pub. L. 95-83, title III, § 310, Aug. 1, 1977, 91 Stat. 377, provided that:

"(a)(1) For the purpose of demonstrating the establishment and initial operation of public and nonprofit private agencies (as defined in section 1861(o) of the Social Security Act) [subsec. *o* of this section] which will provide home health services (as defined in section 1861(m) of the Social Security Act) [subsec. (m) of this section] in areas in which such services are not otherwise available, the Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, make grants to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

* * * * *

"(5) There are authorized to be appropriated $8,000,000 for fiscal year 1976, $2,000,000 for the period July 1, 1976, through September 30, 1976, $8,000,000 for the fiscal year ending September 30, 1977, and $8,000,000 for the fiscal year ending September 30, 1978, for payments under grants under this subsection.

"(b)(1) The Secretary of Health, Education, and Welfare may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act) [subsec. (m) of this section].

* * * * *

"(4) There is authorized to be appropriated $2,000,000 for fiscal year 1976, $1,000,000 for the period July 1, 1976, through September 30, 1976, $4,000,000 for the fiscal year ending September 30, 1977, and $4,000,000 for the fiscal year ending September 30, 1978, for payments under grants under this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247d, 254c, 705, 706, 1301, 1320a-3, 1320c-1, 1320c-4, 1395d, 1395f, 1395g, 1395k, 1395*l*, 1395m, 1395n, 1395u, 1395z, 1395aa, 1395bb, 1395cc, 1395mm, 1395nn, 1395oo, 1396a, 1396b, 1396d, 2689e of this title; title 26 section 415.

§ 1395y. Exclusions from coverage

[*See main edition for text of* (*a*) *to* (*c*)]

(d) False statements, etc.; excessive bills or requests; excessive services or supplies; determination of Secretary

(1) No payment may be made under this subchapter with respect to any item or services furnished to an individual by a person where the Secretary determines under this subsection that such person—

[*See main volume for text of* (*A*)]

(B) has submitted or caused to be submitted (except in the case of a provider of services), bills or requests for payment under this sub-

chapter containing charges (or in applicable cases requests for payment of costs to such person) for services rendered which the Secretary finds to be substantially in excess of such person's customary charges (or in applicable cases substantially in excess of such person's costs) for such services, unless the Secretary finds there is good cause for such bills or requests containing such charges (or in applicable cases, such costs); or

(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1320c-6 of this title (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this subchapter), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.

[*See main edition for text of* (2) *and* (3)]

(4) Repealed. Pub. L. 95-142, § 13(a), Oct. 25, 1977, 91 Stat. 1197

(e) Suspension of practitioners convicted of crimes related to practitioner's involvement in programs

(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the programs under this subchapter or the program under subchapter XIX of this chapter, the Secretary shall suspend such physician or practitioner from participation in the program under this subchapter for such period as he may deem appropriate; and no payment may be made under this subchapter with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) of this section shall apply with respect to determinations made by the Secretary under this subsection.

(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this subchapter, he shall—

(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under subchapter XIX of this chapter of the fact, circumstances, and period of such suspension; and

(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.

(As amended Oct. 25, 1977, Pub. L. 95-142, §§ 7(a), 13(a), (b)(1), (2), 91 Stat. 1192, 1197, 1198.)

AMENDMENT OF SUBSECTION (a)(3)

Pub. L. 95-210, § 1(f), (j), Dec. 13, 1977, 1487, 1488, provided that, effective with respect to services rendered on or after the first day of the third calendar month which begins after Dec. 13, 1977, subsec. (a)(3) of this section is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1395x(aa)(1) of this title, and in such other cases".

AMENDMENTS

1977—Subsec. (d)(1)(B). Pub. L. 95-142, § 13(b)(1), struck out requirement for concurrence of appropriate program review team for finding of Secretary under this paragraph.

Subsec. (d)(1)(C). Pub. L. 95-142, § 13(b)(2), substituted provisions relating to determinations by the Secretary on the basis of reports transmitted to him in accordance with section 1320c-6 of this title or other data acquired in the administration of this subchapter, for provisions relating to determinations by the Secretary with the concurrence of appropriate review team members.

Subsec. (d)(4). Pub. L. 95-142, § 13(a), struck out subsec. (d)(4) which set forth provisions relating to appointment and functions of program review teams.

Subsec. (e). Pub. L. 95-142, § 7(a), added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (d) by section 13(a) and (b)(1), (2) of Pub. L. 95-142, effective on Oct. 25, 1977, see section 13(c) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1320c-6 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1395*l*, 1395u, 1395x, 1395gg, 1395*oo*, 1395pp, 1396a, 1396b of this title; title 45 section 231f.

§ 1395aa. Agreements with States

AMENDMENT OF SUBSECTION (a)

Pub. L. 95-210, § 1(i), (j), Dec. 13, 1977, 91 Stat. 1488, provided that, effective with respect to services rendered on or after the first day of the third calendar month which begins after Dec. 13, 1977, subsec. (a) of this section is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1395x (aa)(2) of this title," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,";

(3) by inserting "rural health clinic," in the last sentence after "facility," the first and second times it appears; and

(4) by striking out "such facility" in the last sentence and inserting in lieu thereof "such health care facility, rural health clinic".

§ 1395cc. Agreements with providers of services

(a) Filing of agreement; eligibility for payment; charges with respect to items and services

(1) Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title) shall be qualified to participate under this subchapter and shall be eligible for payments under this subchapter if it files with the Secretary an agreement—

[*See main edition for text of (A) and (B)*]

(C) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person, and

(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this subchapter) with respect to the provider.

An agreement under this paragraph with a skilled nursing facility shall be for a term of not exceeding 12 months, except that the Secretary may extend such term for a period not exceeding 2 months, where the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such 12-month period to determine whether such facility is complying with the provisions of this subchapter and regulations thereunder.

[*See main edition for text of (2)*]

(b) Termination of agreements

An agreement with the Secretary under this section may be terminated (and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1) of this section)—

[*See main edition for text of (1)*]

(2) by the Secretary at such time and upon such reasonable notice to the provider of services and the public as may be specified in regulations, but only after the Secretary has determined (A) that such provider of services is not complying substantially with the provisions of such agreement, or with the provisions of this subchapter and regulations thereunder, or (B) that such provider of services no longer substantially meets the applicable provisions of section 1395x of this title, or (C) that such provider of services has failed (i) to provide such information as the Secretary finds necessary to determine whether payments are or were due under this subchapter and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Secretary as may be necessary to verify such information, or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such provider and any subcontractor, or (D) that such provider has made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this subchapter or for use in determining the right to a payment under this subchapter, or (E) that such provider has submitted, or caused to be submitted, request for payment under this subchapter of amounts for rendering services substantially in excess of the costs incurred by such provider for rendering such services, or (F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.

Any termination shall be applicable—

[*See main edition for text of (3) to (5); (c) to (e)*]

(As amended Oct. 25, 1977, Pub. L. 95-142, §§ 3(b), 13(b)(3), 15(a), 91 Stat. 1178, 1198, 1200.)

AMENDMENT OF SUBSECTIONS (a), (b)(2), AND (c)(2)

Pub. L. 95-142, § 8(b), (e), provided that, effective with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after Oct. 25, 1977, this section is amended as follows:

Subsec. (a) is amended by adding at the end thereof the following new paragraph:

(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1320a-5(b) of this title) of such provider, is a person described in section 1320a-5(a) of this title.

Subsec. (b)(2) is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1320a-5(a) of this title".

Pub. L. 95-210, § 2(e), (f), Dec. 13, 1977, 91 Stat. 1489, provided that, effective for medical assistance provided under a State plan approved under subchapter XIX of this chapter on and after the first day of the first calendar quarter that begins more than six months after Dec. 13, 1977, with exception for plans requiring State legislation, subsec. (c)(2) of this section is amended by striking out "section 1396i of this title" and inserting in lieu thereof "section 1396i(a) of this title".

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-142, § 15(a), added subpar. (D).

Subsec. (b)(2)(C). Pub. L. 95-142, § 3(b), designated existing provisions as subcl. (i) and added subcl. (ii).

Subsec. (b)(2)(F). Pub. L. 95-142, § 13(b)(3), substituted "of a quality which fails to meet professionally recognized standards of health care" for "harmful to individuals or to be of a grossly inferior quality", and struck out provisions relating to approval by an appropriate program review team.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 15(b) of Pub. L. 95-142 provided that: "The amendments made by subsection (a) [adding subsec. (a)(1)(D) of this section] shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act [Oct. 25, 1977]."

Amendment of subsec. (b)(2)(C) by section 3(b) of Pub. L. 95-142 effective on Oct. 25, 1977, see section 3(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-3 of this title.

Amendment of subsec. (b)(2)(F) by section 13(b)(3) of Pub. L. 95-142 effective on Oct. 25, 1977, see section 13(c) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1320c-6 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 1395e, 1395f, 1395n, 1395x, 1395y, 1395aa, 1395ff, 1396b of this title.

§ 1395dd. Health Insurance Benefits Advisory Council; creation; composition; appointment of members; Chairman; representative activities and interests; terms of office; compensation and travel expenses; meetings; functions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907a, 1395z of this title; title 45 section 231f.

§ 1395*ll*. Studies and recommendations

REPORT TO CONGRESS WITH RESPECT TO URBAN OR RURAL COMPREHENSIVE MENTAL HEALTH CENTERS AND CENTERS FOR TREATMENT OF ALCOHOLISM AND DRUG ABUSE; SUBMISSION NO LATER THAN JUNE 13, 1978

Pub. L. 95-210, § 4, Dec. 13, 1977, 91 Stat. 1490, provided that:

"(a) The Secretary shall submit to the Congress, no later than six months after the date of enactment of this Act [Dec. 13, 1977], a report on the advantages and disadvantages of extending coverage under title XVIII of the Social Security Act [this subchapter] to urban or rural comprehensive mental health centers and to centers for treatment of alcoholism and drug abuse.

"(b) The report submitted under subsection (a) shall include evaluations of—

"(1) the need for coverage under such title of services provided by such centers;

"(2) the extent of present utilization of such centers by individuals eligible for benefits under such title;

"(3) alternatives to services provided by such centers presently available to individuals eligible for benefits under such title;

"(4) the appropriate definition for such centers;

"(5) the types of treatment provided by such centers;

"(6) present Federal and State funding for such centers;

"(7) the extent of coverage by private insurance plans for services provided by such centers;

"(8) present and projected costs of services provided by such centers;

"(9) available methods for assuring proper utilization of such centers;

"(10) the effect of allowing coverage for services provided by such centers on other providers and practitioners; and

"(11) the need for any demonstration projects for further evaluation of the need for coverage for services provided by such centers."

STUDY AND REVIEW BY COMPTROLLER GENERAL OF ADMINISTRATIVE STRUCTURE FOR PROCESSING MEDICARE CLAIMS; REPORT TO CONGRESS

Pub. L. 95-142, § 12, Oct. 25, 1977, 91 Stat. 1197, provided that: "The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act [this subchapter], for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

"(1) by reducing the number of participating intermediaries and carriers;

"(2) by making a single organization responsible for the processing of claims, under both part A and part B of such title, in a particular geographic area;

"(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

"(4) by providing incentive payments for the most efficient organizations; or

"(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto."

REPORT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE ON DELIVERY OF HOME HEALTH AND OTHER IN-HOME SERVICES; CONTENTS; CONSULTATION REQUIREMENTS; SUBMISSION TO CONGRESS

Pub. L. 95-142, § 18, Oct. 25, 1977, 91 Stat. 1202, provided that:

"(a) Not later than one year after the date of enactment of this Act [Oct. 25, 1977], the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act [this subchapter and subchapters XIX and XX of this chapter respectively].

"(b) Such report shall include an evaluation of the coordination of such services provided under the different titles [this subchapter and subchapters XIX and XX of this chapter, respectively] and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

"(2) the requirements for an individual to be eligible to receive such services under such titles;

"(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

"(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certificate of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

"(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by different providers of such services in order to determine the reasonableness of such costs and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act [this subchapter and subchapter XIX of this chapter, respectively]; and

"(6) the prevention of fraud and abuse in the delivery of such services under such titles,

the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services."

§ 1395nn. Offenses and penalties

(a) Making or causing to be made false statements or representations

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this subchapter, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Illegal remunerations

(1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this subchapter, or

(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this subchapter,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this subchapter, or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this subchapter,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(3) Paragraphs (1) and (2) shall not apply to—

(A) a discount or other reduction in price obtained by a provider of services or other entity under this subchapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this subchapter; and

(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(c) False statements or representations with respect to condition or operation of institutions

Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce

the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1395x of this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(d) Violation of assignment terms

Whoever accepts assignments described in section 1395u(b)(3)(B)(ii) of this title and knowingly, willfully, and repeatedly violates the term of such assignments specified in subclause (I) of such section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 4(a), 91 Stat. 1179.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142 designated existing provisions following par. (4) as cl. (ii) and, in cl. (ii) as so designated, added provisions relating to activities of other persons, and added cl. (i).

Subsec. (b). Pub. L. 95-142 redesignated existing provisions as par. (1) and, as so redesignated, substituted provisions relating to solicitation or receiving of any remuneration in return for referring an individual to a person for the furnishing or arranging the furnishing of any item or service, or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, etc., as constituting a felony punishable by a fine of not more than $25,000 and/or imprisonment for not more than five years, for provisions relating to furnishing items or services and soliciting, offering or receiving any kickback, bribe, or rebate in connection with furnishing, etc. items or services as constituting a misdemeanor punishable by a fine of not more than $10,000 and/or imprisonment for not more than one year, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-142 substituted provisions setting forth felony nature of criminal activities with a fine of not more than $25,000, or imprisonment for not more than five years, or both, for provisions setting forth misdemeanor nature of criminal activities with a fine of not more than $2,000, or imprisonment for not more than six months, or both.

Subsec. (d). Pub. L. 95-142 added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 4(d) of Pub. L. 95-142 provided that: "The amendments made by subsections (a) [amending this section] and (b) [amending section 1396h of this title] shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act [Oct. 25, 1977]."

SUBCHAPTER XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247d, 254c, 254e, 254h, 294v, 300e-6, 602, 603, 713, 1301, 1306, 1308, 1309, 1315, 1316, 1318, 1320a-1, 1320a-2, 1320a-3, 1320a-5, 1320c-1, 1320c-4, 1320c-7, 1320c-20, 1320c-21, 1382, 1382g, 1383c, 1395b-1, 1395v, 1395x, 1395y, 1395z, 1395cc, 1397a, 1397b, 1397c, 2689e, 3024, 3028, 3524 of this title; title 7 section 3178; title 12 section 1715w; title 38 section 4108.

§ 1396a. State plans for medical assistance

(a) Contents

A State plan for medical assistance must—

[*See main edition for text of (1) to (25)*]

(26) effective July 1, 1969, provide (A) for a regular program of medical review (including medical evaluation) of each patient's need for skilled nursing facility care or (in the case of individuals who are eligible therefor under the State plan) need for care in a mental hospital, a written plan of care, and, where applicable, a plan of rehabilitation prior to admission to a skilled nursing facility; (B) for periodic inspections to be made in all skilled nursing facilities and mental institutions (if the State plan includes care in such institutions) within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel, or, in the case of skilled nursing facilities, composed of physicians or registered nurses and other appropriate health and social service personnel) of (i) the care being provided in such nursing facilities (and mental institutions, if care therein is provided under the State plan) to persons receiving assistance under the State plan, (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular nursing facilities (or institutions) to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities (or institutions), (iii) the necessity and desirability of the continued placement of such patients in such nursing facilities (or institutions), and (iv) the feasibility of meeting their health care needs through alternative institutional or noninstitutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections together with any recommendations to the State agency administering or supervising the administration of the State plan;

(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency or the Secretary with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency or the Secretary may from time to time request;

[*See main edition for text of (28) to (31)*]

(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, den-

tist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment;

[*See main edition for text of (33) and (34)*]

(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1320a-3 of this title;

(36) provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the statutory conditions of participation imposed under this subchapter, and (B) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization;

(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment (for which no further written information or substantiation is required in order to make payment) made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program;

(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor;

(39) provide that, subject to subsection (g) of this section, whenever the single State agency which administers or supervises the administration of the State plan is notified by the Secretary under section 1395y(e)(2)(A) of this title that a physician or other individual practitioner has been suspended from participation in the program under subchapter XVIII of this chapter, the agency shall promptly suspend such physician or practitioner from participation in the plan for not less than the period specified in such notice, and no payment may be made under the plan with respect to any item or service furnished by such physician or practitioner during the period of the suspension under this subchapter; and

(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1320a(a) of this title to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under subchapter I of this chapter (or subchapter XVI of this chapter, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind in-

dividuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter (except for purposes of paragraph (10)). For purposes of paragraphs (9)(A), (29), (31), and (33), and of section 1396b(i)(4) of this title, the terms "skilled nursing facility" and "nursing home" do not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

For purposes of paragraph (10) any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under subchapter I, X, XIV, or XVI, of this chapter, or part A of subchapter IV of this chapter and who for such month was entitled to monthly insurance benefits under subchapter II of this chapter shall for purposes of this subchapter only be deemed to be eligible for financial aid or assistance for any month thereafter if such individual would have been eligible for financial aid or assistance for such month had the increase in monthly insurance benefits under subchapter II of this chapter resulting from enactment of Public Law 92-336 not been applicable to such individual.

The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.

[*See main edition for text of (b) to (f)*]

(g) Waiver of suspension of payments to physician or practitioner suspended from participating in approved State plan; procedure applicable

The Secretary may waive suspension under subsection (a)(39) of this section of a physician's or practitioner's participation in a State plan approved under this subchapter and of the prohibition under such subsection of payment for any item or service furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of the plan submits a request to the Secretary for such waiver and if the Secretary approves such request.

(As amended Oct. 25, 1977, Pub. L. 95-142, §§ 2(a)(3), (b)(1), 3(c)(1), 7(b), (c), 9, 19(b)(2), 20(b), 91 Stat. 1176, 1178, 1193, 1195, 1204, 1207.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 95-210, § 2(c), (f), Dec. 13, 1977, 91 Stat. 1488, 1489, provided that, effective with respect to medical assistance provided under a State plan approved under this subchapter on and after the first day of the first calendar quarter that begins more than six months after Dec. 13, 1977, with exception for plans requiring State legislation, subsec. (a) is amended as follows:

Subsec. (a)(13)(E) is amended by adding "and" following the semicolon at the end thereof.

Subsec. (a)(13)(F) of this section is added to read as follows:

(F) for payment for services described in section 1396d(a)(2)(B) of this title provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary may prescribe in regulations under section 1395l(a)(3) of this title, or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph;

Subsec. (a)(23) of this section is amended by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

Pub. L. 95-142, § 2(b)(1), (2), provided that, effective with respect to calendar quarters beginning on and after July 1, 1978, with respect to State plans approved under this subchapter, subsec. (a) of this section is amended by inserting a new par. (37) and by inserting at the end a new paragraph to read as set out in the text above.

AMENDMENTS

1977—Subsec. (a)(26). Pub. L. 95-142, § 20(b), added provision relating to staff of skilled nursing facilities.

Subsec. (a)(27)(B). Pub. L. 95-142, § 9, added "or the Secretary" following "State agency" wherever appearing therein.

Subsec. (a)(32). Pub. L. 95-142, § 2(a)(3), substituted provisions relating to terms, conditions, etc, for payments under an assignment or power of attorney, for provisions relating to terms, conditions, etc., for payments to anyone other than the individual receiving any care or service provided by a physician, dentist, or other individual practitioner, or such physician, dentist, or practitioner.

Subsec. (a)(35). Pub. L. 95-142, § 3(c)(1)(A), substituted provisions relating to requirements for intermediate care facilities to comply with section 1320a-3 of this title for provisions relating to disclosure requirements, effective Jan. 1, 1973, applicable to intermediate care facilities with respect to ownership, corporate, status, etc.

Subsec. (a)(37). Pub. L. 95-142, § 2(b)(1)(A)-(C) added subsec. (a)(37).

Subsec. (a)(38). Pub. L. 95-142, §§ 3(c)(1)(D), 7(b)(2), 19(b)(2)(A) added subsec. (a)(38) and made and struck out minor changes in phraseology necessitating no changes in text.

Subsec. (a)(39). Pub. L. 95-142, §§ 7(b)(3), 19(b)(2)(B), added subsec. (a)(39).

Subsec. (a)(40). Pub. L. 95-142, § 19(b)(2)(C), added subsec. (a)(40).

Subsec. (a), foll. par. (40). Pub. L. 95-142, § 2(b)(1)(D) added paragraph relating to waiver of requirement of clause (A) of par. (37).

Subsec. (g). Pub. L. 95-142, § 7(c), added subsec. (g).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(32) by section 2(a)(3) of Pub. L. 95-142 applicable with respect to care and services furnished on or after Oct. 25, 1977, see section 2(a)(4) of Pub. L. 95-142, set out as an Effective Date

of 1977 Amendment note under section 1395g of this title.

Amendment of subsec. (a)(35) and (38) by section 3(c)(1) of Pub. L. 95-142 effective Jan. 1, 1978, see section 3(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-3 of this title.

Section 2(b)(2) of Pub. L. 95-142 provided that: "The amendments made by paragraph (1) [adding par. (37) and a new unnumbered paragraph at the end of subsec. (a)] shall apply to calendar quarters beginning on and after July 1, 1978, with respect to State plans approved under title XIX of the Social Security Act [subchapter XIX of this chapter]."

Section 7(e)(2) of Pub. L. 95-142 provided that: "The amendment made by subsection (b) [adding subsec. (a)(39) of this section] shall become effective on January 1, 1978."

Section 19(c)(2) of Pub. L. 95-142 provided that:

"(A) The amendments made by subsection (b) [adding subsec. (a)(40) of this section and amending section 1395x(v)(1)(F) of this title] shall apply with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) [section 1320a(a) of this title] for that type of health services facility.

"(B) The amendments made by subsection (b) [adding subsec. (a)(40) of this section and amending section 1395x(v)(1)(F) of this title] shall apply, with respect to the operation of a health services facility or organization which is neither a hospital, a skilled nursing facility, nor an intermediate care facility, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization.

"(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) [adding subsec. (a)(40) of this section] shall apply, with respect to State plans approved under title XIX of the Social Security Act [this subchapter], on and after October 1, 1977."

Amendment of subsec. (a)(26) by section 20(b) of Pub. L. 95-142 effective on Oct. 1, 1977, and the Secretary to adjust payments made to States under section 1396b of this title to reflect such amendment, see section 20(c) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1396b of this title.

§ 1396b. Payment to States

(a) Computation of amount

From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing January 1, 1966—

[*See main edition for text of (1) and (2)*]

(3) an amount equal to—

[*See main edition for text of (A)*]

(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; plus

[*See main edition for text of (4) and (5)*]

(6) subject to subsection (b)(3) of this section, an amount equal to 90 per centum of the sums expended during each quarter beginning on or after October 1, 1977, and ending before October 1, 1980, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to the establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (q) of this section); plus

(7) an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) Quarterly expenditures beginning after December 31, 1969

[*See main edition for text of (1) and (2)*]

(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(6) of this section may not exceed the higher of—

(A) $125,000, or

(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this subchapter.

[*See main edition for text of (c) to (f)*]

(g) Decrease in Federal medical assistance percentage of amounts paid for services furnished under State plan after June 30, 1973

(1) Subject to paragraph (3), with respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1395mm of this title), the Federal medical assistance percentage shall be decreased as follows: After an individual has received care as an inpatient in a hospital (including an institution for tuberculosis), skilled nursing facility or intermediate care facility on 60 days, or in a hospital for mental diseases on 90 days (whether or not such days are consecutive), during any fiscal year, which for purposes of this section means the four calendar quarters ending with June 30, the Federal medical

assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual in the same fiscal year shall be decreased by a per centum thereof (determined under paragraph (5)) unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services (including tuberculosis hospitals), skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), there is in operation in the State an effective program of control over utilization of such services; such a showing must include evidence that—

[*See main edition for text of (A) to (D)*]

In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1395d of this title.

(2) The Secretary shall, as part of his validation procedures under this subsection, conduct timely sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this subchapter, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

(3)(A) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

(i) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning before January 1, 1977;

(ii) before January 1, 1978;

(iii) unless a notice of such reduction has been provided to the State at least 30 days before the date such reduction takes effect; or

(iv) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

(B) The Secretary shall waive application of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending after January 1, 1977, and before October 1, 1977, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to the calendar quarter ending on December 31, 1977, is satisfactory under such paragraph and is valid under paragraph (2).

(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraph (26) and (31) of section 1396a(a) of this title, if the showing demonstrates that the State has conducted such an onsite inspection during the 12-month period ending on the last date of the calendar quarter—

(i) in each of not less than 98 per centum of the number of such hospitals and facilities requiring such inspection, and

(ii) in every such hospital or facility which has 200 or more beds,

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due deligence in attempting to conduct such inspection, or if the State demonstrates to the satisfaction of the Secretary that it would have made such a showing but for failings of a technical nature only.

(5) In the case of a State's unsatisfactory or invalid showing made with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1) is equal to 33⅓ per centum multiplied by a fraction, the denominator of which is equal to the total number of patients receiving that type of services in that quarter under the State plan in facilities or institutions for which a showing was required to be made under this subsection, and the numerator of which is equal to the number of such patients receiving such type of services in that quarter in those facilities or institutions for which a satisfactory and valid showing was not made for that calendar quarter.

(6) The Secretary shall submit to Congress, not later than sixty days after the end of such calendar quarter, a report on—

(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under para-

graph (1) of an unsatisfactory or invalid showing.

[*See main edition for text of (h)*]

(i) Payment for services performed after December 31, 1972; restrictions

Payment under the preceding provisions of this section shall not be made—

[*See main edition for text of (1)*]

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under subchapter XVIII of this chapter with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1395y(d)(1) of this title or under clause (D), (E), or (F) of section 1395cc(b)(2) of this title, or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1395cc(b)(2) or under section 1396a(a)(38) of this title; or

[*See main edition for text of (3) and (4); (j) to (l)*]

(m) Definition; duties and functions of Secretary; payments to States; provisional determination of status by State

[*See main edition for text of (1)*]

(2)(A) Except as provided in subparagraphs (B) and (C), no payment shall be made under this subchapter to a State with respect to expenditures incurred by it for payment (determined under a prepaid capitation basis or under any other risk basis) for services provided by any entity which is responsible for the provision of inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1396d(a) of this title or for the provision of any three or more of the services described in such paragraphs unless—

(i) the Secretary (or the State as authorized by paragraph (3)) has determined that the entity is a health maintenance organization as defined in paragraph (1); and

(ii) less than one-half of the membership of the entity consists of individuals who (I) are insured for benefits under part B of subchapter XVIII of this chapter or for benefits under both parts A and B of such subchapter, or (II) are eligible to receive benefits under this subchapter.

[*See main edition for text of (B)*]

(C) Subparagraph (A)(ii) shall not apply with respect to payments under this subchapter to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on October 8, 1976, or beginning on the date the entity enters into a contract with the State under this subchapter for the provision of health services on a prepaid risk basis, whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A)(ii).

[*See main edition for text of (3)*]

(n) State agency action upon disclosure or failure to disclose required information by institution, organization, etc.

The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person, who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1320a-5(b) of this title) of such institution, organization, or agency, is a person described in section 1320a-5(a) of this title (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1395cc of this title or is subject to a suspension of payment order issued under subsection (j) of this section); and, notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1320a-5(a) of this title at the time such contract or agreement was entered into or such approval was given.

(o) Restrictions on authorized payments to States

Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this subchapter to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

(p) Assignment of rights of payment; incentive payments for enforcement and collection

(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1396k of this title, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of

any amount collected which is attributable to such rights of support or payment.

(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

(q) State medicaid fraud control unit defined

For the purposes of this section, the term "State medicaid fraud control unit" means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authroity to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, that (i) assure its referral of suspected criminal violations relating to the program under this subchapter to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Secretary and which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this subchapter.

(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this subchapter.

(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this subchapter.

(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this subchapter, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the State plan to health care facilities and that are discovered by the entity in carrying out its activities.

(6) The entity employes such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.

(As amended Aug. 1, 1977, Pub. L. 95-83, title I, § 105 (a)(1), (2), 91 Stat. 384; Oct. 25, 1977, Pub. L. 95-142, §§ 3(c)(2), 8(c), 10(a), 11(a), 17(a)-(c), 20(a), 91 Stat. 1179, 1195, 1196, 1201, 1205.)

ADDITION OF SUBSECTION (n)

Pub. L. 95-142, § 8(c), (e), provided that, effective with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after Oct. 25, 1977, this section is amended by adding subbsec. (n) to read as set out in the text above.

AMENDMENTS

1977—Subsec. (a)(3)(B). Pub. L. 95-142, § 10(a), added provisions relating to notice to individuals in a sample group and provisions exempting notice respecting confidential services from notice requirements.

Subsec. (a)(6). Pub. L. 95-142, § 17(a), added subsec. (a)(6). Former subsec. (a)(6) was redesignated as (a)(7).

Subsec. (a)(7). Pub. L. 95-142, § 17(a), redesignated former subsec. (a)(6) as (a)(7).

Subsec. (b)(3). Pub. L. 95-142, § 17(b), added subsec. (b)(3).

Subsec. (g). Pub. L. 95-142, § 20(a), in par. (1) substituted "Subject to paragraph (3), with respect to" for "With respect to" and "by a per centum thereof (determined under paragraph (5))" for "by 33⅓ per centum thereof", in par. (2) added "timely" preceding "sample onsite surveys", and added pars. (3) to (6).

Subsec. (i)(2). Pub. L. 95-142, § 3(c)(2), added provisions relating to noncompliance under sections 1395cc(b)(2) and 1396a(a)(38) of this title.

Subsec. (m)(2)(A). Pub. L. 95-83, § 105(a)(1), in revising the text, incorporated former cl. (i)(I) and (II) provisions in the introductory text relating to responsibility for providing inpatient hospital services and other described services, substituting "capitation basis" for "capitation risk basis" and inserting the word "unless"; redesignated as cl. (i) former cl. (ii), substituting "has determined that the entity is a health maintenance organization" for "has not determined to be a health maintenance organization"; and redesignated as cl. (ii) former cl. (iii), substituting "less than one-half of the membership of the entity consists of individuals who (I) are insured for benefits under part B of subchapter XVIII of this chapter or for benefits under both parts A and B of such subchapter, or (II) are eligible to receive benefits under this subchapter" for "more than one-half of the membership of which consists of individuals who are insured under parts A and B of subchapter XVIII of this chapter or recipients of benefits under this subchapter."

Subsec. (m)(2)(C). Pub. L. 95-83, § 105(a)(2), substituted reference to subpar. "(A)(ii)" for "(A)(iii)" wherever appearing.

Subsec. (n). Pub. L. 95-142, § 8(c), added subsec. (n).

Subsecs. (o), (p). Pub. L. 95-142, § 11(a), added subsecs. (o) and (p).

Subsec. (q). Pub. L. 95-142, § 17(c), added subsec. (q).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (i)(2) by section 3(c)(2) of Pub. L. 95-142 effective Jan. 1, 1978, see section 3(e) of

Pub. L. 95-142, set out as an Effective Date note under section 1320a-3 of this title.

Subsec. (n) effective with respect to contracts, agreements, etc., made on and after the first day of the fourth month beginning after Oct. 25, 1977, see section 8(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-5 of this title.

Section 10(b) of Pub. L. 95-142 provided that: "The amendment made by subsection (a) [amending subsec. (a)(3)(B) of this section] shall apply with respect to calendar quarters beginning after the date of the enactment of this Act [Oct. 25, 1977]."

Section 11(c) of Pub. L. 95-142 provided that: "The amendment made by subsection (a) [adding subsecs. (o) and (p) of this section] shall apply with respect to medical assistance provided, under a State plan approved under title XIX of the Social Security Act [this subchapter], on and after January 1, 1978."

Section 17(e)(1) of Pub. L. 95-142 provided that: "The amendment made by subsection (a) [adding subsec. (a)(6) of this section and redesignating former subsec. (a)(6) of this section as (a)(7)] shall apply with respect to calendar quarters beginning after September 30, 1977."

Section 20(c) of Pub. L. 95-142 provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending subsec. (g) of this section and section 1396a(a)(26) of this title] shall be effective on October 1, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Security Act [this section] to reflect the changes made by such amendments.

"(2) The amount of any reduction in the Federal medical assistance percentage of a State, otherwise required to be imposed under section 1903(g)(1) of the Social Security Act [subsec. (g)(1) of this section] because of an unsatisfactory or invalid showing made by the State with respect to a calendar quarter beginning on or after January 1, 1977, shall be determined under such section as amended by this section. Subparagraph (B) of paragraph (4) of section 1905(g) [probably means 1903(g)] of such Act, as added by this section [subsec. (g)(4)(B) of this section] shall apply to any showing made by a State under such section with respect to a calendar quarter beginning on or after January 1, 1977."

Section 105(a)(3) of Pub. L. 95-83 provided that:

"The amendments made by paragraphs (1) and (2) [amending this section] shall apply with respect to payments under title XIX of the Social Security Act [this subchapter] to States for services provided—

"(A) after October 8, 1976, under contracts under such title [this subchapter] entered into or renegotiated after such date, or

"(B) after the expiration of the one-year period beginning on such date,

whichever occurs first."

Effective Date of 1972 Amendment

Section 249B of Pub. L. 92-603, as amended by Pub. L. 93-368, § 8, Aug. 7, 1974, 88 Stat. 422; Pub. L. 95-83, title III, § 309(b), Aug. 1, 1977, 91 Stat. 396, provided in part that the enactment of par. (4) of subsec. (a) and the concurrent redesignation of former par. (4) as par. (5) by section 249B of Pub. L. 92-603 shall be effective for the period beginning Oct. 1, 1972, and ending Sept. 30, 1980.

Promulgation of Regulations for Implementation of Amendments by Section 17 of Pub. L. 95-142

Section 17(e)(2) of Pub. L. 95-142 provided that: "The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act [Oct. 25, 1977] as are necessary to carry out the amendments made by this section [enacting subsecs. (a)(6), (b)(3), and (q) of this section and section 1395b-1(a)(1)(j) of this title and redesignating former subsec. (a)(6) of this section as (a)(7)]."

Deferral of Implementation of Decreases in Matching Funds

Section 6 of Pub. L. 95-59, June 30, 1977, 91 Stat. 255, provided that: "Notwithstanding the provisions of subsection (g) of section 1903 of the Social Security Act [subsec. (g) of this section], the amount payable to any State for the calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977, on account of expenditures made under a State plan approved under title XIX of such Act [this subchapter], shall not be decreased by reason of the application of the provisions of such subsection with respect to any period for which such State plan was in operation prior to April 1, 1977."

Section Referred to in Other Sections

This section is referred to in sections 643, 1315, 1320c-20, 1396a of this title.

§ 1396d. Definitions

For purposes of this subchapter—

(a) Medical assistance

The term "medical assistance" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1396a(a)(10)(A) of this title) not receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter, who are—

[See main edition for remainder of (a) and (b) to (k)]

Amendment of Subsection (a)(2); Addition of Subsection (l)

Pub. L. 95-210, § 2(a), (b), (f), Dec. 13, 1977, 91 Stat. 1488, 1489, provided that, effective with respect to medical assistance provided under a State plan approved under this subchapter on and after the first day of the first calendar quarter that begins more than six months after Dec. 13, 1977, with exception for plans requiring State legislation, this section is amended as follows:

Subsec. (a)(2) is amended to read as follows:

(2)(A) outpatient hospital services, and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l) of this section) and any other ambulatory services which are offered by a rural health clinic (as defined in

subsection (l) of this section) and which are otherwise included in the plan:

A new subsec. (l) is added to read as follows:

(l) Rural health clinics

The terms "rural health clinic services" and "rural health clinic" have the meanings given such terms in section 1395x(aa) of this title, except that (1) clause (ii) of section 1395x(aa)(2) of this title shall not apply to such terms, and (2) the physician arrangement required under section 1395x(aa)(2)(B) of this title shall only apply with respect to rural health clinic services and, with respect to other ambulatory care services, the physician arrangement required shall be only such as may be required under the State plan for those services.

CODIFICATION

The introductory portion of subsec. (a) is set out in this supplement to correct typographical error appearing in the main edition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1318, 1320c-1, 1320c-4, 1396a, 1396b of this title.

§ 1396h. Offenses and penalties

(a) Making or causing to be made false statements or representations

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this subchapter, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this subchapter is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this subchapter or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

(b) Illegal remunerations

(1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this subchapter, or

(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this subchapter,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this subchapter, or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this subchapter,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(3) Paragraphs (1) and (2) shall not apply to—

(A) a discount or other reduction in price obtained by a provider of services or other entity under this subchapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this subchapter; and

(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(c) False statements or representations with respect to condition or operation of institutions

(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this subchapter) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(d) Illegal patient admittance and retention practices

Whoever knowingly and willfully—

(1) charges, for any service provided to a patient under a State plan approved under this subchapter, money or other consideration at a rate in excess of the rates established by the State, or

(2) charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under a State plan approved under this subchapter, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)—

(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

(B) as a requirement for the patient's continued stay in such a facility,

when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(As amended Oct. 25, 1977, Pub. L. 95-142, § 4(b)), 91 Stat. 1181.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142 designated existing provisions following par. (4) as cl. (ii) and, as so designated, added provisions relating to activities of other persons, and added provisions authorizing the State to limit, restrict, or suspend, the eligibility of any convicted persons for benefits, and added cl. (i).

Subsec. (b). Pub. L. 95-142 redesignated existing provisions as par. (1) and, as so redesignated, substituted provisions relating to solicitation or receiving of any remuneration in return for referring an individual to a person for the furnishing or arranging the furnishing of any item or service, or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, etc., as constituting a felony punishable by a fine of not more than $25,000 and/or imprisonment for not more than five years, for provisions relating to furnishing items or services and soliciting, offering or receiving any kickback, bribe, or rebate in connection with furnishing, etc. items or services as constituting a misdemeanor punishable by a fine of not more than $10,000 and/or imprisonment for not more than one year, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-142 substituted provisions setting forth felony nature of criminal activities with a fine of not more than $25,000, or imprisonment for not more than five years, or both, for provisions setting forth misdemeanor nature of criminal activities with a fine of not more than $2,000, or imprisonment for not more than six months, or both.

Subsec. (d). Pub. L. 95-142 added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-142 applicable with respect to acts occurring and statements or representations made on after Oct. 25, 1977, see section 4(d) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1395nn of this title.

§ 1396i. Certification and approval of skilled nursing facilities

AMENDMENT OF SUBSECTIONS (a) AND (b)

Pub. L. 95-210, § 2(d), (f), Dec. 13, 1977, 91 Stat. 1489, provided that, effective with respect to medical assistance provided under a State plan approved under this subchapter on and after the first day of the first calendar quarter that begins more than six months after Dec. 13, 1977, with exceptions for plans requiring State legislation, subsecs. (a) and (b) of this section are redesignated as subsec. (a)(1) and (2), and a new subsec. (b) is added to read as follows:

(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under subchapter XVIII of this chapter, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

(2) The Secretary shall notify the State agency administering the medical assistance plan of this approval or disapproval of any facility in that Stae which has applied for certification by him as a qualified rural health clinic.

§ 1396k. Assignment, enforcement, and collection of rights of payments for medical care; establishment of procedures pursuant to State plan; amounts retained by State

(a) For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan approved under this subchapter, a State plan for medical assistance may—

(1) provide that, as a condition of eligibility for medical assistance under the State plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under this subchapter and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and

to payment for medical care from any third party; and

(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and

(2) provide for entering into cooperative arrangements (including financial arrangements), with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 654(3) of this title) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the State plan with respect to (A) the enforcement and collection of rights to support or payment assigned under this section and (B) any other matters of common concern.

(b) Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

(Aug. 14, 1935, ch. 531, title XIX, § 1912, as added Oct. 25, 1977, Pub. L. 95-142, § 11(b), 91 Stat. 1196.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396b of this title.

SUBCHAPTER XX—GRANTS TO STATES FOR SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 602, 622, 1315, 1316, 1320a-3, 1320-5, 3024, 3195 of this title; title 40 App. section 202.

§ 1397. Authorization of appropriations

EFFECTIVE DATE

Section 7 of Pub. L. 93-647, as amended by Pub. L. 94-120, § 3, Oct. 21, 1975, 89 Stat. 609; Pub. L. 94-401, § 2, Sept. 7, 1976, 90 Stat. 1215, eff. Feb. 1, 1976; Pub. L. 95-171, § 1(d), Nov. 12, 1977, 91 Stat. 1353; eff. Oct. 1, 1977, provided that:

"(a)(1) The amendments made by sections 2 and 5 of this Act [enacting this subchapter and amending sections 303, 603, 1203, 1353, and 1383 note of this title] shall be effective with respect to payments for quarters commencing after September 30, 1975.

* * * * *

"(3) Notwithstanding paragraph (1) of this subsection or section 3(f) [set out as a note under section 1397a of this title], payments under title IV [subchapter IV of this chapter] or section 2002(a)(1) of the Social Security Act [section 1397a(a)(1) of this title] with respect to expenditures made prior to October 1, 1978, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act [section 1397a(a)(9)(A)(ii) of this title], so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.

* * * * *

§ 1397a. Payments to States; computation of amounts

(a) [*See main edition for text of (1) to (8)*]

(9) [*See main edition for text of (A)*]

(B) The Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives, after December 31, 1976, and prior to April 1, 1978, an evaluation of the appropriateness of the requirements imposed by subparagraph (A), together with any recommendations he may have for modification of those requirements. No earlier than ninety days after the submission of that report, the Secretary may, by regulation, make such modifications in the requirements imposed by subparagraph (A) as he determines are appropriate.

[*See main edition for text of (C), (10) to (14)*]

(15) No payment may be made under this section with respect to any expenditure for the provision of any health related service if such service is provided by an entity which has failed to comply with a request made by the Secretary or State agency under section 1397b(d)(1)(J) of this title, for so long as such entity remains in noncompliance with such request.

[*See main edition for text of (b)*]

(As amended June 30, 1977, Pub. L. 95-59, § 5, 91 Stat. 255; Oct. 25, 1977, Pub. L. 95-142, § 3(d)(2), 91 Stat. 1179.)

ADDITION OF SUBSECTION (a)(16)

Pub. L. 95-142, § 8(d), (e), provided that, effective with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after Oct. 25, 1977, subsec. (a) of this section is amended by adding at the end thereof the following new paragraph:

(16) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this subchapter, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1320a-5(b) of this title) of such provider, is a person described in section 1320a-5(a) of this title, and the State may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1320a-5(a) of this title at the time the contract or arrangement was entered into or the approval was given.

AMENDMENTS

1977—Subsec. (a)(9)(B). Pub. L. 95-59 substituted "April 1, 1978" for "July 1, 1977".

Subsec. (a)(15). Pub. L. 95-142, § 3(d)(2), added subsec. (a)(15).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(15) by section 3(d)(2) of Pub. L. 95-142 effective Jan. 1, 1978, see section 3(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-3 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 5(b) of Pub. L. 94-401, as amended by Pub. L. 95-171, § 1(b), Nov. 12, 1977, 91 Stat. 1353, eff. Oct. 1, 1977, provided that: "The amendments made by subsection (a) [amending subsec. (a)(9)(A)(ii)(IV) and (V) of this section] shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act [subsec. (a)(9)(A)(ii)(V) of this section], be effective for the period beginning October 1, 1975, and ending September 30, 1978; and on and after October 1, 1978, section 2002(a)(9)(A)(ii) of the Social Security Act [subsec. (a)(9)(A)(ii) of this section] shall read as it would if such amendments had not been made."

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Section 4(c) of Pub. L. 94-120 as amended by Pub. L. 94-401, § 6, eff. Feb. 1, 1976; Pub. L. 95-171, § 1(c), Nov. 12, 1977, 91 Stat. 1353, eff. Oct. 1, 1977, provided that: "The amendments made by this section [amending this section and section 1397b of this title] shall be effective only for the period beginning October 1, 1975, and ending September 30, 1978; and, on and after October 1, 1978, sections 2002(a)(7) [subsec. (a)(7) of this section], 2002(a)(11) [subsec. (a)(11) of this section], and 2003 of the Social Security Act [section 1397b of this title] shall read as they would if such amendments [amending this section and section 1397b of this title] had not been made."

PAYMENTS TO STATES FOR FISCAL PERIOD BEGINNING JULY 1, 1976, AND ENDING SEPTEMBER 30, 1976, AND FISCAL YEARS ENDING SEPTEMBER 30, 1977 AND 1978; COMPUTATION AMOUNTS, LIMITATIONS, ETC.

Section 3 of Pub. L. 94-401, as amended by Pub. L. 95-171, § 1(a), Nov. 12, 1977, 91 Stat. 1353, eff. Oct. 1, 1977, provided that:

"(a) For purposes of title XX of the Social Security Act [this subchapter], the amount of the limitation (imposed by section 2002(a)(2) of such Act) [subsec. (a)(2) of this section] which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, shall be deemed to be equal to whichever of the following is the lesser:

"(1) an amount equal to—

"(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

"(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, and such fiscal year ending September 30, 1978, or

"(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or either such fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authroized to be made to the State under such title [this subchapter], for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c)(1) are applicable.

"(b) The additional Federal funds which become payable to any State for the fiscal period or either fiscal year specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

"(c)(1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3)(A)) during the fiscal period or either fiscal year specified in subsection (a), to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3)(B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act [this subchapter], to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act [this chapter], for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a)(1) of such Act [subsec. (a)(1) of this section]. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure '75' as contained in the first sentence of section 2002(a)(1) of such Act, shall be deemed to read '100'.

"(2) The provisions of paragraph (1) shall not be applicable—

"(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or either fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, or

* * * * *

"(d)(1) In the administration of title XX of the Social Security Act [this subchapter], the figure '75', as contained in the first sentence of section 2002(a)(1) of such Act [subsec. (a)(1) of this section], shall, subject to paragraph (2), be deemed to read '100' for purposes of applying such sentence to expenditures made

by a State for the provision of child day care services during the fiscal year ending September 30, 1977, or the fiscal year ending September 30, 1978.

"(2) The total amount of Federal payments which may be paid to any State for either such fiscal year under title XX of the Social Security Act [this subchapter] at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

* * * * *

PAYMENTS FOR EXPENDITURES MADE PRIOR TO OCTOBER 1, 1978 IN CONNECTION WITH PROVISION OF CHILD DAY CARE SERVICES

Payments for expenditures made prior to Oct. 1, 1978, in connection with the provision of child day care services to be made without regard to the requirements relating to staffing standards imposed by or under subsec. (a)(9)(A)(ii) of this section, see section 7(a)(3) of Pub. L. 93-647, as amended, set out as an Effective Date note under section 1397 of this title.

§ 1397b. State programs for social services assistance

[See main edition for text of (a) to (c)]

(d) Contents of State plans

(1) Each State which participates in the program established by this subchapter shall have a plan applicable to its program for the provision of the services described in section 1397a(a)(1) of this title which—

[See main edition for text of (A) to (G)]

(H) provides that the State's program for the provision of the services described in section 1397a(a)(1) of this title will be in effect in all political subdivisions of the State;

(I) provides for financial participation by the State in the provision of the services described in section 1397a(a)(1) of this title; and

(J) provides that any entity (other than an individual practitioner or a group of practitioners) receiving payments for the provision of health related services complies with the requirements of section 1320a-3 of this title, and supplies (within such period as may be specified in regulations by the Secretary or by the State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (i) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (ii) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.

Notwithstanding clause (C), if on December 1, 1974, the State agency which administered or supervised the administration of the portion of the plan of the State for services to the aged, blind, or disabled approved under subchapter VI of this chapter which related to blind individuals was different from the agency which administered or supervised the administration of the rest of that plan, the State agency which administered or supervised the administration of the portion of the plan of the State for services to the aged, blind, or disabled related to blind individuals may be designated to administer or supervise the administration of the portion of the State's program for the provision of the services described in section 1397a(a)(1) of this title related to blind individuals and a separate State agency may be designated to administer or supervise the administration of the rest of the program; and in such case the part of the program which each agency administers, or the administration of which each agency supervises, shall be regarded as a separate program for the provision of the services described in section 1397a(a)(1) of this title for purposes of this subchapter. The date selected by the State pursuant to section 1397c(1) of this title as the beginning of the services program year for each of the separate programs shall be the same.

[See main edition for text of (2); (e)]

(As amended Oct. 25, 1977, Pub. L. 95-142, § 3(d)(1), 91 Stat. 1179.)

AMENDMENTS

1977—Subsec. (d)(1)(J). Pub. L. 95-142, added subsec. (d)(1)(J).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-142 effective Jan. 1, 1978, see section 3(e) of Pub. L. 95-142, set out as an Effective Date of 1977 Amendment note under section 1320a-3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1397a of this title.

CHAPTER 8—LOW-INCOME HOUSING

§§ 1417a to 1422. Omitted

RETROACTIVE APPLICATION OF POLICIES OR PROCEDURES ESTABLISHED BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT TO RIGHTS OF OWNERS OF LEASED HOUSING, INCLUDING RIGHT OF RENEWAL.

Pub. L. 93-383, title II, § 208, Aug. 22, 1974, 88 Stat. 669, as amended by Pub. L. 95-128, title II, § 201(h), Oct. 12, 1977, 91 Stat. 1129, provided that: "Nothing in this title [for distribution of title II of Pub. L. 93-383, see Tables volume] or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to the rights of an owner under a lease entered into under section 23 of the United States Housing Act of 1937 [section 1421b of this title], including the right to renewal of such lease to the maximum term permitted by law, if such lease was entered into prior to the effective date of such policy or procedure."

§ 1437c. Annual contributions for low-income housing projects

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Limitation on aggregate contractual contributions; contracts for annual contributions for assistance to Indian tribes, bands, etc.; contracts for preliminary loans; payments of annual contributions

The Secretary is authorized to enter into contracts for annual contributions aggregating not more than $1,524,000,000 per annum, which limit shall be increased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, by $1,228,050,000 on October 1, 1976, and by $1,159,995,000 on October 1, 1977, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts. Of the additional authority to enter into contracts for annual contributions provided on October 1, 1976, and approved in appropriation Acts, the Secretary shall (A) make available, at least $60,000,000 for the modernization of low-income housing projects, and (B) make available at least $140,000,000 to assist in financing low-income housing projects for ownership by public housing agencies other than under section 1437f of this title, of which not less than $100,000,000 shall be available only for the purpose of financing the construction or substantial rehabilitation of low-income housing projects. The Secretary, in utilizing the additional authority to enter into contracts for annual contributions provided on October 1, 1976, shall administer the programs authorized by this chapter to provide assistance for new, substantially rehabilitated, and existing units, to the maximum extent practicable and consistent with section 1439(d) of this title, in accordance with the goals of units of general local government for such types of housing as reflected in their housing assistance plans prepared pursuant to section 5304(a)(4) of this title. Of the additional authority to enter into contracts for annual contributions provided on October 1, 1977, and approved in appropriation Acts, the Secretary shall make available not less than $42,500,000 for modernization of low-income housing projects, not less than $197,139,200 for low-income housing projects permanently financed by loans from State housing finance or State development agencies, as defined in section; 1440(b)(2)(A) of this title, and not less than $120,000,000 for low-income housing projects permanently financed by loans pursuant to section 1701q of title 12. In addition, the Secretary shall enter into contracts for annual contributions, out of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, aggregating at least $15,000,000 per annum, which amount shall be increased by not less than $15,000,000 per annum, on July 1, 1975, and by not less than $17,000,000 per annum on October 1, 1976, to assist in financing the development or acquisition cost of low-income housing for families who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for service from the Bureau of Indian Affairs, or who are wards of any State government, except that none of the funds made available under this sentence shall be available for use under section 1437f of this title. For the purpose of the preceding sentence, the annual contributions for a project shall, notwithstanding any other provisions of this chapter, be equal to the difference between the sum of the total debt service payment plus approved operating costs, and the rental payments that tenants are required to make under section 1437a(1) of this title. The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this chapter when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 1437b(b) of this title (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

[*See main edition for text of* (*d*) *to* (*h*)]

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 101(a), 91 Stat. 55; Oct. 12, 1977, Pub. L. 95-128, title II, § 201(a), (b), 91 Stat. 1128.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-128 authorized increase in aggregate contractual contributions by $1,159,995,000 on Oct. 1, 1977, and required the Secretary to make available therefrom minimum amounts of $42,500,000 for modernization of low-income housing projects, $197,139,200 for such projects financed by loans from State housing finance or State development agencies, and $120,000,000 for such projects financed by loans pursuant to section 1701q of title 12.

Pub. L. 95-24 substituted "and by $1,228,050,000 on October 1, 1976" for "and by $850,000,000 on October 1, 1976".

§ 1437d. Contract provisions and requirements; loans and annual contributions

STUDY OF PAYMENTS IN LIEU OF TAXES; REPORT TO CONGRESS

Pub. L. 95-128, title II, § 201(g), Oct. 12, 1977, 91 Stat. 1129, provided that: "The Secretary of Housing and Urban Development shall conduct a study of payments in lieu of taxes made under section 6(d) of the United States Housing Act of 1937 [subsec. (d) of this section] and report to the Congress on the status and adequacy of such payments not later than twelve months after the date of enactment of this section [Oct. 12, 1977]."

§ 1437f. Lower-income housing assistance

[*See main edition for text of (a) and (b)*]

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a local housing assistance plan as defined in section 1439(a)(5) of this title. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Notwithstanding any other provision of this section, after October 12, 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative.

[*See main edition for text of (2) and (3)*]

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

[*See main edition for text of (5) to (8)*]

(d) Required provisions and duration of contracts for assistance payments

[*See main edition for text of (1) and (2)*]

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(e) Restrictions on contracts for assistance payments

(1) The Secretary shall not contract to make assistance payments with respect to a newly constructed or substantially rehabilitated dwelling unit for a term of less than one month or more than three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 1715z-9 of title 12. Notwithstanding the preceding sentence, in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency or the Farmers' Home Administration, the term may not exceed four hundred and eighty months.

(2) The contract between the Secretary and the owner with respect to newly constructed or substantially rehabilitated dwelling units shall provide that all ownership, management, and maintenance responsibilities, including the selection of tenants and the termination of tenancy, shall be assumed by the owner (or any entity, including a public housing agency, approved by the Secretary, with which the owner may contract for the performance of such responsibilities). In approving any public housing agency to assume all the management and maintenance responsibilities of any dwelling unit under the preceding sentence, the Secretary may do so without regard to whether such agency administers the housing assistance payment contract for that unit.

[*See main edition for text of (3) and (4); (f) to (h)*]

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 101(c), 91 Stat. 55; Oct. 12, 1977, Pub. L. 95-128, title II, § 201(c)-(e), 91 Stat. 1128, 1129.)

AMENDMENTS

1977—Subsec. (c), Pub. L. 95-128, § 201(c), (d), added in par. (1) prohibition against high-rise elevator projects for families with children after Oct. 12, 1977, and deleted from par. (4) provision which had prohibited payment after the sixty-day period if the unoccupied unit was in a project insured under the National Housing Act, except pursuant to section 1715z-9 of title 12.

Subsec. (d)(3). Pub. L. 95-128, § 201(e)(1), added par. (3).

Subsec. (e)(1). Pub. L. 95-24 substituted "three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section

1715z-9 of title 12" for "two hundred and forty months" and "Notwithstanding the preceding sentence, in the case of" for "In the case of".

Subsec. (e)(2). Pub. L. 95-128, § 201(e)(2), added provision respecting the Secretary's approval of any public housing agency for assumption of management and maintenance responsibilities of dwelling units under the preceding sentence.

TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY

Pub. L. 93-383, § 319(b) provided that: "With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Act [section 1715l(d)(3) of Title 12, Banks and Banking] and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [this section], the interest paid on such obligation shall by included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 [chapter 1 of Title 26, Internal Revenue Code]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1437j of this title; title 12 sections 1701q, 1715l, 1723e; title 26 section 1250; title 40 App. section 207.

§ 1437g. Annual contributions for operation of low-income housing projects

[See main edition for text of (a) and (b)]

(c) Authorization of appropriation

There are authorized to be appropriated, for the purpose of providing annual contributions pursuant to this section not to exceed $535,000,000 on or after July 1, 1975, not to exceed $80,000,000 on or after July 1, 1976, not to exceed $595,600,000 on or after October 1, 1976, and not to exceed $685,000,000 on or after October 1, 1977.

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 101(b), 91 Stat. 55; Oct. 12, 1977, Pub. L. 95-128, title II, § 201(f), 91 Stat. 1129.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-128 authorized appropriation for annual contributions of $685,000,000 on or after Oct. 1, 1977.

Pub. L. 95-24 substituted "and not to exceed $595,600,000 on or after October 1, 1976" for "and not to exceed $576,000,000 on or after October 1, 1976".

§ 1439. Local housing assistance plan

[See main edition for text of (a) to (c)]

(d) Allocation and reservation of housing assistance funds; purposes

(1) In allocating financial assistance under the provisions of law specified in subsection (a) of this section, the Secretary, so far as practicable, shall consider the relative needs of different areas and communities as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions, subject to such adjustments as may be necessary to assist in carrying out activities designed to meet lower income housing needs as described in approved housing assistance plans submitted by units of general local government or combinations of such units assisted under section 5307(a)(2) of this title. The Secretary shall assure, to the maximum extent practicable in carrying out the national housing and community development objectives, that funds available for each housing assistance program referred to in subsection (a) of this section shall be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 5304 of this title, and shall be utilized to meet needs reflected in data referred to in the preceding sentence. The amount of assistance allocated to nonmetropolitan areas pursuant to this section in any fiscal year shall not be less than 20 nor more than 25 per centum of the total amount of such assistance.

[See main edition for text of (2) and (3)]

(As amended Pub. L. 95-128, title II, § 207, Oct. 12, 1977, 91 Stat. 1130.)

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-128 added provision requiring the Secretary to assure that funds available for subsec. (a) housing assistance programs shall be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 5304 of this title and shall be utilized to meet needs reflected in data referred to in the preceding sentence.

§ 1440. State housing finance and development agencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437c of this title; title 12 sections 371, 1464.

CHAPTER 8A—SLUM CLEARANCE, URBAN RENEWAL, AND FARM HOUSING

SUBCHAPTER III—FARM HOUSING

Sec.
1490h. Taxation of Farmers Home Administration-held property [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1434, 1441a, 2985c, 5303 of this title; title 20 section 80g; title 48 sections 1408, 1408c.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1441. Congressional declaration of national housing policy

NATIONAL COMMISSION ON NEIGHBORHOODS

Pub. L. 95-24, title II, §§ 201 to 208, Apr. 30, 1977, 91 Stat. 56, provided that:

"SHORT TITLE

"Sec. 201. This title may be cited as the 'National Neighborhood Policy Act'.

"FINDINGS AND PURPOSE

"Sec. 202. (a) The Congress finds and declares that existing city neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote that objective.

"(b) The Congress further finds that the tendency of public policy incentives to ignore the need to preserve the built environment can no longer be defended, either economically or socially, and must be replaced with explicit policy incentives encouraging

conservation of existing neighborhoods. That objective will require a comprehensive review of existing laws, policies, and programs which affect neighborhoods, to assess their impact on neighborhoods, and to recommend modifications where necessary.

"ESTABLISHMENT OF COMMISSION

"Sec. 203. (a) There is hereby established a commission to be known as the National Commission on Neighborhoods (hereinafter referred to as the 'Commission').

"(b) The Commission shall be composed of twenty members, to be appointed as follows:

"(1) two Members of the Senate appointed by the President of the Senate;

"(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(3) sixteen public members appointed by the President of the United States from among persons specially qualified by experience and training to perform the duties of the Commission, at least five of whom shall be elected officers of recognized neighborhood organizations engaged in development and revitalization programs, and at least five of whom shall be elected or appointed officials of local governments involved in preservation programs. The remaining members shall be drawn from outstanding individuals with demonstrated experience in neighborhood revitalization activities, from such fields as finance, business, philanthropic, civic, and educational organizations.

The individuals appointed by the Presidnet of the United States shall be selected so as to provide representation to a broad cross section of racial, ethnic, and geographic groups. The two members appointed pursuant to clause (1) may not be members of the same political party, nor may the two members appointed pursuant to clause (2) be members of the same political party. Not more than eight of the members appointed pursuant to clause (3) may be members of the same political party.

"(c) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the public members.

"(d) The executive director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals recommended by the Commission.

"DUTIES

"Sec. 204. (a) The Commission shall undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization. Such study and investigation shall include, but not be limited to—

"(1) an analysis of the impact of existing Federal, State, and local policies, programs, and laws on neighborhood survival and revitalization;

"(2) an identification of the administrative, legal, and fiscal obstacles to the well-being of neighborhoods;

"(3) an analysis of the patterns and trends of public and private investment in urban areas and the impact of such patterns and trends on the decline or revitalization of neighborhoods;

"(4) an assessment of the existing mechanisms of neighborhood governance and of the influence exercised by neighborhoods on local government;

"(5) an analysis of the impact of poverty and racial conflict on neighborhoods;

"(6) an assessment of local and regional development plans and their impact on neighborhoods; and

"(7) an evaluation of existing citizen-initiated neighborhood revitalization efforts and a determination of how public policy can best support such efforts.

"(b) The Commission shall make recommendations for modifications in Federal, State, and local laws, policies, and programs necessary to facilitate neighborhood preservation and revitalization. Such recommendations shall include, but not be limited to—

"(1) new mechanisms to promote reinvestment in existing city neighborhoods;

"(2) more effective means of community participation in local governance;

"(3) policies to encourage the survival of economically and socially diverse neighborhoods;

"(4) policies to prevent such destructive practices as blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote homeownership in urban communities;

"(5) policies to encourage better maintenance and management of existing rental housing;

"(6) policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;

"(7) modification in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods; and

"(8) reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

"(c) Not later than one year after the date on which funds first become available to carry out this title, the Commission shall submit to the Congress and the President a comprehensive report on its study and investigation under this subsection which shall include its findings, conclusions, and recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

"COMPENSATION OF MEMBERS

"Sec. 205. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

"(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"ADMINISTRATIVE PROVISIONS

"Sec. 206. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of a maximum rate for GS-18 of the General Schedule under section 5332 of such title.

"(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including traveltime. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code for persons in the Government service employed intermittently.

"(c) Each department, agency, and instrumentality of the United States is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

"(d) The Commission may award contracts and grants for the purposes of evaluating existing neighborhood revitalization programs and the impact of existing laws on neighborhoods. Awards under this subsection may be made to—

"(1) representatives of legally chartered neighborhood organizations;

"(2) public interest organizations which have a demonstrated capability in the area of concern; and

"(3) universities and other not-for-profit educational organizations.

"(e) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereof. Hearings by the Commission will be held in neighborhoods with testimony received from citizen leaders and public officials who are engaged in neighborhood revitalization programs.

"AUTHORIZATIONS OF APPROPRIATIONS

"Sec. 207. There are authorized to be appropriated not to exceed $1,000,000 to carry out this title.

"EXPIRATION OF THE COMMISSION

"Sec. 208. The Commission shall cease to exist thirty days after the submission of its report under section 204."

SUBCHAPTER II—SLUM CLEARANCE AND URBAN RENEWAL

§ 1451. Local programs

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Requirements; exceptions; minimum standards housing code

No contract shall be entered into for any loan or capital grant under this subchapter, unless (1) there is presented to the Secretary by the locality, a workable program for community improvement (which shall include an official plan of action, as it exists from time to time, for effectively dealing with the problem of urban slums and blight within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated, or slum areas, or to undertake such of the aforesaid activities or other feasible community activities as may be suitably employed to achieve the objectives of such a program, and (2) on the basis of his review of such program, the Secretary determines that such program meets the requirements of this subsection and certifies that the Federal assistance may be made available in such community: *Provided*, That commencing three years after September 2, 1964 or, in the case of an Indian tribe, band, or nation, commencing January 1, 1970, no workable program shall be certified or re-certified unless (A) the locality has had in effect, for at least six months prior to such certification or re-certification, a minimum standards housing code, related but not limited to health, sanitation, and occupancy requirements, which is deemed adequate by the Secretary, and (B) the Secretary is satisfied that the locality is carrying out an effective program of enforcement to achieve compliance with such housing code. Notwithstanding any other provision of law, in the case of a contract with an Indian tribe, band, or nation (or a public housing or other public agency for such tribe, band, or nation established under State or tribal law), the workable program and minimum standards housing code, referred to in the preceding sentence, may be presented to the Secretary by such tribe, band, or nation, and it shall be subject to the requirements of law with respect to such program and code only to the extent that such tribe, band, or nation has the legal jurisdiction and power to carry out such requirements.

[*See main edition for text of* (*d*) *and* (*e*)]

(As amended Apr. 30, 1977, Pub. L. 95-24, title I, § 105(a), 91 Stat. 56.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-24 struck out "and no mortgage shall be insured, and no commitment to insure a mortgage shall be issued, under section 1715k of title 12," following "loan or capital grant under this subchapter," and proviso relating to the applicability of this subsection to the insurance of, or commitment to insure, a mortgage under section 1715k of title 12.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1452, 1452b, 1460, 1462, 1466, 1467, 1468, 1468a, 1469c of this title.

§ 1452b. Rehabilitation loans

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Limitations

A rehabilitation loan made under this section shall be subject to the following limitations:

[*See main edition for text of* (*1*) *to* (*3*)]

(4) The amount of the loan may not exceed—

(A) in the case of residential property, $27,000 per dwelling unit: *Provided*, That, within the limitations otherwise applicable on the amount of a loan, the loan may exceed the cost of rehabilitation in order to include an amount approved by the Secretary to refinance existing indebtedness secured by such property if such refinancing is necessary to enable the applicant to amortize, with a monthly payment of not more

than 20 per centum of his average monthly income, such loan and any other indebtedness secured by his property; and

[*See main edition for text of* (*B*) *and* (*5*)]

(d) Authorization of appropriations; revolving fund

There is authorized to be appropriated not to exceed $150,000,000 for each fiscal year ending prior to July 1, 1975, not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975, not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976, and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977, which shall constitute a revolving fund to be used by the Secretary in carrying out this section. All moneys in such revolving fund shall be available for necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing of such loans. The amount of commitments to make loans pursuant to this section entered into after August 22, 1976, shall not exceed amounts approved in appropriation Acts.

[*See main edition for text of* (*e*) *to* (*g*)]

(h) Termination date

No loan shall be made under this section after September 30, 1979, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section prior to October 1, 1979.

(As amended Pub. L. 95-128, title I, § 111, Oct. 12, 1977, 91 Stat. 1127.)

AMENDMENTS

1977—Subsec. (c)(4)(A). Pub. L. 95-128, § 111(a), substituted "$27,000 per dwelling unit" for "the amount of a loan which could be insured by the Secretary of Housing and Urban Development under section 1715k(h) of title 12" and in proviso "amount of a loan" for "amount of a loan under such section".

Subsec. (d). Pub. L. 95-128, § 111(b), authorized appropriation of $60,000,000 for fiscal year beginning Oct. 1, 1977.

Subsec. (h). Pub. L. 95-128, § 111(c), substituted "1979" for "1977" wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

§ 1469. Declaration of purpose

NATIONAL COMMISSION ON NEIGHBORHOODS

Establishment of National Commission on Neighborhoods to assess existing policies, laws, and programs having an impact on neighborhoods and to make recommendations with regard to modifications, see title II of Pub. L. 95-24, set out as a note under section 1441 of this title.

SUBCHAPTER III—FARM HOUSING

§ 1471. Financial assistance by Secretary of Agriculture

(a) Authorization and purposes of assistance

The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized, subject to the terms and conditions of this subchapter, to extend financial assistance, through the Farmers Home Administration, (1) to owners of farms in the United States and in the Territories of Alaska and Hawaii and in the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, to enable them to construct, improve, alter, repair, or replace dwellings and other farm buildings on their farms, and to purchase buildings and land constituting a minimum adequate site, in order to provide them, their tenants, lessees, sharecroppers, and laborers with decent, safe, and sanitary living conditions and adequate farm buildings as specified in this subchapter, and (2) to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings and to rural residents for such purposes and for the purchase of buildings and the purchase of land constituting a minimum adequate site, in order to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations, and (3) to elderly or handicapped persons or families who are or will be the owners of land in rural areas for the construction, improvement, alteration, or repair of dwellings and related facilities, the purchase of dwellings and related facilities and the purchase of land constituting a minimum adequate site, in order to provide them with adequate dwellings and related facilities for their own use, and (4) to an owner described in clause (1), (2), or (3) for refinancing indebtedness which—

[*See main edition for text of* (*A*) *to* (*C*)]

(b) Definitions

[*See main edition for text of* (*1*) *and* (*2*)]

(3) For the purposes of this subchapter, the term "elderly or handicapped persons or families" means families which consist of two or more persons, the head of which (or his or her spouse) is at least sixty-two years of age or is handicapped. Such term also means a single person who is at least sixty-two years of age or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions, or if such person is a developmentally disabled individual as defined in section 6001(7) of this title. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the

definitions contained in this paragraph, eligibility of families and persons for admission to and occupancy of housing constructed with assistance under this subchapter. Notwithstanding the preceding provisions of this paragraph, such term also includes two or more elderly (sixty-two years of age or over) or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to the care or well-being of such persons, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this subchapter, with the deceased member of the family at the time of his or her death.

(c) Conditions of eligibility

In order to be eligible for the assistance authorized by subsection (a) of this section, the applicant must show (1) that he is the owner of a farm which is without a decent, safe, and sanitary dwelling for himself and his family and necessary resident farm labor, or for the family of the operating tenant, lessee, or sharecropper, or without other farm buildings adequate for the type of farming in which he engages or desires to engage, or that he is the owner of other real estate in a rural area or a rural resident without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations, or that the applicant is an elderly or handicapped person or family in a rural area without an adequate dwelling or related facility for its own use, or that he is the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in clause (4) of subsection (a) of this section; (2) that he is without sufficient resources to provide the necessary housing and buildings on his own account; and (3) that he is unable to secure the credit necessary for such housing and buildings from other sources upon terms and conditions which he could reasonably be expected to fulfill. If an applicant is a State or local public agency—

[*See main edition for text of* (*A*) *and* (*B*); (*d*)]

(e) Prepayment of taxes, insurance, and other expenses; advances to account of borrower: interest, time for repayment

The Secretary may establish procedures whereby borrowers under this subchapter may make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary may deem appropriate. Such payments shall be disbursed by the Secretary at the appropriate time or times for the purposes for which such payments are made, and after October 1, 1977, if the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay these costs in full, which advances shall be charged to the account of the borrower and bear interest and be payable in a timely fashion not to exceed two years, as determined by the Secretary. The Secretary shall notify a borrower in writing when his loan payments are delinquent.

(As amended Oct. 12, 1977, Pub. L. 95-128, title V, §§ 503, 507(a), (1), (2), (b), 91 Stat. 1139-1141.)

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-128, § 507(a)(1), substitued "elderly or handicapped persons or families" for "elderly persons".

Subsec. (b)(3). Pub. L. 95-128, § 507(b), substituted definition of "elderly or handicapped persons or families" for prior definition of "elderly persons" as persons who are 62 years of age or over.

Subsec. (c)(1). Pub. L. 95-128, § 507(a)(2), substituted "the applicant is an elderly or handicapped person or family in a rural area without an adequate dwelling or related facility for its own use" for "he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use".

Subsec. (e). Pub. L. 95-128, § 503, substituted as a second sentence "Such payments shall be disbursed by the Secretary at the appropriate time or times for the purposes for which such payments are made, and after October 1, 1977, if the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay these costs in full, which advances shall be charged to the account of the borrower and bear interest and be payable in a timely fashion not to exceed two years, as determined by the Secretary". for "Such payments shall be held in escrow by the Secretary and paid out by him at the appropriate time or times for the purposes for which such payments are made".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1476, 1477, 1478, 1487 of this title; title 7 section 1933; title 38 section 1811.

§ 1472. Loans for housing and buildings on adequate farms

[*See main edition for text of* (*a*)]

(b) Provisions of loan instrument

The instruments under which the loan is made and the security given shall—

[*See main edition for text of* (*1*) *and* (*2*)]

(3) except for guaranteed loans, contain the agreement of the borrower that he will, at the request of the Secretary, proceed with diligence to refinance the balance of the indebtedness through cooperative or other responsible private credit sources whenever the Secretary determines, in the light of the borrower's circumstances, including his earning capacity and the income from the farm, that he is able to do so upon reasonable terms and conditions;

[*See main edition for text of* (*4*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title V, § 502(a), 91 Stat. 1139.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-128 inserted introductory phrase "except for guaranteed loans,".

§ 1476. Buildings and repairs

[*See main edition for text of* (a) *to* (c)]

(d) Research capacity within the Farmers Home Administration; establishment; authority

In order to carry out this section, the Secretary shall establish a research capacity within the Farmers Home Administration which shall have authority to undertake, or to contract with any public or private body to undertake, research authorized by this section.

[*See main edition for text of* (e)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title V, § 510, 91 Stat. 1142.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-128 substituted provision respecting establishment and authority of a research capacity within the Farmers Home Administration for provision to carry out subsec. (b) and (c) research and study programs through grants by the Secretary to land-grant colleges on such terms, conditions, and standards as he may prescribe or through such other agencies as he may elect.

§ 1477. Preferences for veterans and families of deceased servicemen

As between eligible applicants seeking assistance under sections 1471 to 1474, inclusive, of this title, the Secretary shall give preference to veterans and the families of deceased servicemen. As used herein, a "veteran" shall mean a person who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38), and who was discharged or released therefrom on conditions other than dishonorable. "Deceased servicemen" shall mean persons who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38), and who died in service before the termination of such war or such period or era.

CODIFICATION

Section is set out in this supplement to correct a typographical error in the main edition.

§ 1479. General powers of Secretary

(a) Standards of adequate farm housing and other buildings; criteria

The Secretary, for the purposes of this subchapter, shall have the power to determine and prescribe the standards of adequate farm housing and other buildings, by farms or localities, taking into consideration, among other factors, the type of housing which will provide decent, safe, and sanitary dwelling for the needs of the family using the housing, the type and character of the farming operations to be conducted, and the size and earning capacity of the land.

(b) Terms or conditions of leases or occupancy agreements subject to change with approval of Secretary

The Secretary may require any recipient of a loan or grant to agree that the availability of improvements constructed or repaired with the proceeds of the loan or grant under this subchapter shall not be a justification for directly or indirectly changing the terms or conditions of the lease or occupancy agreement with the occupants of such farms to the latter's disadvantage without the approval of the Secretary.

(c) Rural Housing Insurance Fund for payment of expenditures respecting construction defects; judicial review prohibition

The Secretary is authorized, after October 1, 1977, with respect to any unit or dwelling newly constructed during the period beginning eighteen months prior to October 12, 1977, and purchased with financial assistance authorized by this subchapter which he finds to have structural defects to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property, if such assistance is requested by the owner of the property within eighteen months after financial assistance under this subchapter is rendered to the owner of the property or, in the case of property with respect to which assistance was made available within eighteen months prior to October 12, 1977, within eighteen months after October 12, 1977. Expenditures pursuant to this subsection may be paid from the Rural Housing Insurance Fund. Decisions by the Secretary regarding such expenditures or payments under this subsection, and the terms and conditions under which the same are approved or disapproved, shall not be subject to judicial review.

(d) Terms and conditions; regulations

The Secretary shall, by regulation, prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.

(As amended Oct. 12, 1977, Pub. L. 95-128, title V, § 504, 91 Stat. 1139.)

AMENDMENTS

1977—Subsecs. (c), (d). Pub. L. 95-128 added subsecs. (c) and (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1487 of this title; title 38 section 1811.

§ 1483. Appropriations

There is authorized to be appropriated to the Secretary (a) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to (i) the aggregate of the contributions made by the Secretary in the form of

credits on principal due on loans made pursuant to section 1473 of this title, and (ii) the interests due on a similar sum represented by notes or other obligations issued by the Secretary; (b) not to exceed $105,000,000 for loans and grants pursuant to section 1474 of this title during the period beginning July 1, 1956, and ending September 30, 1978; (c) not to exceed $105,000,000 for financial assistance pursuant to section 1486 of this title for the period ending September 30, 1978; (d) not to exceed $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title during the period beginning July 1, 1961, and ending June 30, 1974, and not to exceed $1,000,000 per year for such programs during the period beginning October 1, 1974, and ending September 30, 1978; (e) such further sums as may be necessary to enable the Secretary to carry out the provisions of this subchapter; and (f) such sums as may be required by the Secretary to administer the provisions of sections 1715z and 1715z-1 of title 12.

(As amended June 30, 1977, Pub. L. 95-60, § 4(a), 91 Stat. 258; July 31, 1977, Pub. L. 95-80, § 4(a), 91 Stat. 340; Oct. 12, 1977, Pub. L. 95-128, title V, § 501(a), 91 Stat. 1138.)

AMENDMENTS

1977—Pub. L. 95-128 substituted in cls. (b) to (d) "September 30, 1978" for "September 30, 1977" and in cls. (b) and (c) "$105,000,000" for "$80,000,000".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977" wherever appearing therein.

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977" in cls. (b), (c), and (d).

§ 1484. Insurance of loans for housing and related facilities for domestic farm labor

[*See main edition for text of (a) to (e)*]

(f) Definitions

As used in this section—

[*See main edition for text of (1) and (2)*]

(3) the term "domestic farm labor" means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States, Puerto Rico, or the Virgin Islands and either (A) are citizens of the United States, or (B) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence therein.

(As amended Oct. 12, 1977, Pub. L. 95-128, title V, § 505, 91 Stat. 1140.)

AMENDMENTS

1977—Subsec. (f)(3). Pub. L. 95-128 extended term "domestic farm labor" to include laborers on farms situated in Puerto Rico and the Virgin Islands and the residents of the islands after being legally admitted for permanent residence.

§ 1485. Housing and related facilities for elderly or handicapped persons or families or other persons and families of low income

(a) Direct loans; authorization; terms and conditions; revolving fund; appropriation

The Secretary is authorized to make loans to private nonprofit corporations and consumer cooperatives to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income or other persons and families of low income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

[*See main edition for text of (1) to (3)*]

There is authorized to be appropriated not to exceed $50,000,000, which shall constitute a revolving fund to be used by the Secretary in carrying out this subsection.

(b) Insurance of loans; authorization; terms and conditions; utilization of Agricultural Credit Insurance Fund expiration date

The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, or partnership to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

[*See main edition for text of (1) to (4)*]

(5) no loan shall be insured under this subsection after September 30, 1978.

(c) Construction requirements

No loan shall be made or insured under subsection (a) or (b) of this section unless the Secretary finds that the construction involved will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials. However, specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant.

(d) Definitions

As used in this section—

(1) the term "housing" means new or existing housing suitable for dwelling use by occupants eligible under this section; and such term also means congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves; such housing for the handicapped may be utilized in conjunction with educational and training facilities;

[*See main edition for text of (2)*]

(3) the term "congregate housing" means housing in which (A) some of the units may not have kitchen facilities, and (B) there is a central dining facility to provide wholesome

and economic meals for elderly or handicapped persons or families.

[*See main edition for text of (4); (e)*]

(As amended June 30, 1977, Pub. L. 95-60, § 4(b), 91 Stat. 258; July 31, 1977, Pub. L. 95-80, § 4(b), 91 Stat. 340; Oct. 12, 1977, Pub. L. 95-128, title V, §§ 501(b), 507(a)(3), 508, 91 Stat. 1138, 1140, 1141.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 507(a)(3), authorized loans for housing of handicapped persons or families.

Subsec. (b). Pub. L. 95-128, §§ 501(b), 507(a)(3), substituted "elderly or handicapped persons or families" for "elderly persons and elderly families" in provision preceding par. (1) and "September 30, 1978" for "September 30, 1977" in par. (5).

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977" in par. (5).

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977" in par. (5).

Subsec. (c). Pub. L. 95-128, § 508(a), provided that specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant.

Subsec. (d)(1). Pub. L. 95-128, § 508(b), defined "housing" to also mean congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves and authorized such housing for the handicapped to be utilized in conjunction with educational and training facilities.

Subsec. (d)(3). Pub. L. 95-128, § 508(c), substituted definition of "congregate housing" for prior definition of "elderly persons" as persons 62 years of age or over and "elderly families" as families the head of which (or his spouse) is 62 years of age or over.

§ 1487. Rural Housing Insurance Fund

(a) Authority to make and insure loans for housing and buildings on adequate farms; restrictions

The Secretary may insure loans meeting the requirements of section 1472 of this title, and may make loans in accordance with the requirements of such section to be sold and insured; except that such loans shall—

(1) if the borrowers are persons of low or moderate income (as defined by the Secretary), (A) not exceed amounts necessary to provide adequate housing, modest in size, design, and cost (as determined by the Secretary), and (B) bear interest at a rate not to exceed 5 per centum per annum; but no loan under this paragraph shall be insured or made after September 30, 1978, except pursuant to a commitment entered into before that date; and

[*See main edition for text of (2); (b) to (d)*]

(e) Rural Housing Insurance Fund; creation; authorization of appropriations; separate operation of guaranteed and insured loan programs: transfer of funds

There is hereby created the Rural Housing Insurance Fund (hereinafter referred to as the "Fund") which shall be used by the Secretary as a revolving fund for carrying out the provisions of this section. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of the Fund. The guaranteed loan program under this subchapter shall be operated separately from the insured loan program operated under this subchapter and no funds designated for one program may be transferred to another program.

[*See main edition for text of (f) to (i)*]

(j) Additional uses of Fund moneys

The Secretary may also utilize the Fund—

[*See main edition for text of (1) and (2)*]

(3) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, and other services customary in the industry, construction inspections, commercial appraisals, servicing of loans, and other related program services and expenses, and other expenses and advances to protect the security for loans which are insured under this section or held in the Fund, and to acquire such security property at foreclosure sale or otherwise;

(4) to make assistance payments authorized by section 1490a(a)(2) of this title;

(5) after October 1, 1977, and as approved in appropriations Acts, to make advances authorized by section 1471(e) of this title; and

(6) after October 1, 1977, and as approved in appropriations Acts, to make the expenditures authorized by section 1479(c) of this title.

[*See main edition for text of (k) to (m)*]

(n) Loans to borrowers with above-moderate incomes

Loans guaranteed under this section shall be made only to borrowers with above-moderate incomes.

(o) Loans to persons of low income; minimum amount

At least 60 per centum of the amount of loans made pursuant to sections 1472 and 1485 of this title shall benefit persons of low income.

(As amended June 30, 1977, Pub. L. 95-60, § 4(c), 91 Stat. 258; July 31, 1977, Pub. L. 95-80, § 4(c), 91 Stat. 340; Oct. 12, 1977, Pub. L. 95-128, title V, §§ 501(c), 502(b), (c), 506, 509, 91 Stat. 1139-1141.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-128, § 501(c), substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

Subsec. (e). Pub. L. 95-128, § 502(b), required separate operation of guaranteed loan program and insured loan program and prohibited transfer of funds from one program to the other.

Subsec. (j)(5), (6). Pub. L. 95-128, § 506, added pars. (5) and (6).

Subsec. (n). Pub. L. 95-128, § 502(c), added subsec. (n).

Subsec. (o). Pub. L. 95-128, § 509, added subsec. (o).

§ 1490a. Loans to provide occupant owned, rental, and cooperative housing for low and moderate income, elderly or handicapped persons or families

(a) Interest rates; determination of eligibility; multifamily housing projects; assistance payments to owners; amount limitations; recordkeeping and payment requirements for owners

(1) Notwithstanding the provisions of sections 1472, 1487(a) and 1485 of this title, loans to persons of low or moderate income under section 1472 or 1487(a)(1) of this title, loans under section 1485 of this title to provide rental or cooperative housing and related facilities for persons and families of low or moderate income or elderly or handicapped persons or families and loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income, shall bear interest at a rate prescribed by the Secretary at not less than a rate determined by the Secretary of the Treasury upon the request of the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum: *Provided*, That such a loan may be made only when the Secretary determines that the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under section 1715z or 1715z-1 of title 12: *Provided further*, That interest on loans under section 1472 or 1487(a) of this title to victims of natural disaster shall not exceed the rate which would be applicable to such loans under section 1472 of this title without regard to this section. Any loan guaranteed under this subchapter shall bear interest at such rate as may be agreed upon by the borrower and the lender.

(2)(A) The Secretary shall make and insure loans under this section and sections 1484, 1485 and 1487 of this title to provide rental or cooperative housing and related facilities for persons and families of low income in multifamily housing projects, and shall make, and contract to make, assistance payments to the owners of such rental housing in order to make available to low-income occupants of such housing rentals at rates commensurate to income and not exceeding 25 per centum of income. Such assistance payments shall be made on a unit basis and shall not be made for more than 20 per centum of the units in any one project, except that (i) when the project is financed by a loan under section 1485 of this title for elderly or handicapped housing or by a loan under section 1484 of this title and a grant under section 1486 of this title, such assistance may be made for up to 100 per centum of the units, and (ii) when the Secretary determines such action is necessary or feasible, he shall make such payments with respect to more than 20 per centum of the units.

[*See main edition for text of* (*B*) *and* (*C*); (*b*) *and* (*c*)]

(As amended Oct. 12, 1977, Pub. L. 95-128, title V, §§ 502(d), 507(a)(4), (5), 511, 91 Stat. 1139, 1140, 1142.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-128, §§ 502(d), 507(a)(4), provided that any loan guaranteed under this subchapter shall bear interest at the rate as may be agreed upon by the borrower and the lender and provided loans for housing of handicapped persons or families.

Subsec. (a)(2)(A). Pub. L. 95-128, §§ 507(a)(5), 511, included handicapped housing in cl. (i) and substituted "shall" for "may" wherever appearing, except in cl. (i).

§ 1490c. Mutual and self-help housing

[*See main edition for text of* (*a*) *to* (*e*)]

(f) Authorization of appropriations; termination date

There are hereby authorized to be appropriated for each fiscal year commencing after June 30, 1968, and ending prior to October 1, 1978, such sums, not in excess of $10,000,000 for any such fiscal year, as may be necessary to carry out the provisions of this section. No grant or loan may be made or contract entered into under the authority of this section after September 30, 1978, except pursuant to a commitment or other obligation entered into pursuant to this section before that date.

[*See main edition for text of* (*g*) *and* (*h*)]

(As amended June 30, 1977, Pub. L. 95-60, § 4(d), 91 Stat. 258; July 31, 1977, Pub. L. 95-80, § 4(d), 91 Stat. 340; Oct. 12, 1977, Pub. L. 95-128, title V, § 501(d), 91 Stat. 1139.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-128 substituted "1978" for "1977" wherever appearing.

Pub. L. 95-80 substituted "October 1, 1977" for "August 1, 1977" and "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "August 1, 1977" for "July 1, 1977" and "July 31, 1977" for "June 30, 1977".

§ 1490h. Taxation of Farmers Home Administration-held property

All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this subchapter other than property used for administrative purposes shall be subject to taxation by a State, Commonwealth, territory, possession, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided*, That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

(2) any notes or lien instruments administered under this subchapter which are made, assigned, or held by a person otherwise liable for such tax; or

(3) the value of any property conveyed or transferred to the Secretary, whether as a tax on the instrument, the privilege of conveying or transferring, or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.

(July 15, 1949, ch. 338, title V, § 528, as added Oct. 12, 1977, Pub. L. 95-128, title V, § 512(a), 91 Stat. 1142.)

EFFECTIVE DATE

Section 512(c) of Pub. L. 95-128 provided that: "The amendment made by subsection (a) [enacting this section] shall become effective as of January 1, 1977."

REFUND OF TAX PAYMENTS PRIOR TO OCTOBER 12, 1977, BARRED; FEDERAL OFFICERS OR EMPLOYEES NOT LIABLE FOR SUCH PAYMENTS

Section 512(b) of Pub. L. 95-128 provided that: "Notwithstanding any other provision of law, no State, Commonwealth, territory, possession, district, or local political subdivision which has received, prior to the date of enactment of this Act [Oct. 12, 1977], tax payments from the Department of Agriculture based on property held by the Farmers Home Administration shall be liable for, or be obligated to refund, the amount of any such payment, which, if it had been made after the date of enactment of this Act, would have been authorized by the provisions of section 528 of the Housing Act of 1949 [this section], and no officer or employee of the United States shall incur or be under any liability by reason of having made or authorized any such payments."

§ 1492. Public projects

[*See main edition for text of* (*a*)]

(b) Restrictions and limitations; interest

The powers granted in subsection (a) of this section shall be subject to the following restrictions and limitations:

[*See main edition for text of* (*1*) *to* (*3*)]

(4) No financial assistance shall be extended under clause (1) of subsection (a) of this section (A) to any municipality or other political subdivision having a population of fifty thousand or more (one hundred fifty thousand or more in the case of a community situated in an area designated as a redevelopment area under the Area Redevelopment Act or any Act supplementary thereto, according to the most recent decennial census, or; (B) to any public agency or instrumentality serving one or more municipalities, political subdivisions, or unincorporated areas in one or more States, unless each municipality, political subdivision, or unincorporated area to be served by the specific public work or facility for which assistance is sought under this section has a population less than the applicable figure under clause (A) according to such census. This paragraph shall not apply to any financial assistance to be extended under subsection (a) of this section for the purpose of financing any project for public works or facilities (i) in a community in or near which is located a research or development installation of the National Aeronautics and Space Administration, or (ii) to be initiated or accelerated as the result of a grant-in-aid from an allocation made by the President under section 2642 of this title, or (iii) to be provided in connection with the establishment of a new community approved under section 1749cc-1 of title 12 or under title IV, of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or under part B of the Urban Growth and New Community Development Act of 1970 [42 U.S.C. 4511 et seq.].

[*See main edition for text of* (*c*) *to* (*f*)]

CODIFICATION

Subsection (b)(4) of this section is set out in this supplement to correct a typographical error in the main edition.

CHAPTER 8C—OPEN-SPACE LAND

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3914, 4519, 5306, 5316 of this title; title 16 sections 460*l*-8, 1247.

CHAPTER 9—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

SUBCHAPTER IX—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

§ 1592n. Definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof where transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER XI—HOUSING FOR MILITARY PERSONNEL

§ 1594g. Repealed. Pub. L. 85-241, title IV, § 406(b), Aug. 30, 1957, 71 Stat. 556

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 85-241 effective July 1, 1958.

CHAPTER 13—SCHOOL LUNCH PROGRAMS

Sec.
1769. Pilot projects [New].
(a) Statement of purpose; project contents.
(b) Study.
(c) Report to Congress; contents.
1769a. Reduction of paperwork; report to Congress [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1774, 1776, 1779, 1782 of this title; title 7 section 1431c; title 40 section 474; title 48 section 1666.

§ 1751. Congressional declaration of policy

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-166, § 1, Nov. 10, 1977, 91 Stat. 1325, provided: "That this Act [which enacted sections 1769, 1769a, and 1788 of this title, amended sections 1754 to 1758, 1759a, 1760, 1761, 1762a, 1763, 1766, 1772 to 1774, 1776, 1779, 1784, and 1786 of this title, and enacted provisions set out as notes under sections 1755 and 1772 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Amendments of 1977'."

§ 1753. Availability of appropriations; food assistance payments

CODIFICATION

June 4, 1946, ch. 281, § 5, 60 Stat. 231, cited in the credits to this section, should read June 4, 1946, ch. 281, § 4, 60 Stat. 230.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1754, 1755, 1756, 1757, 1759a, 1766, 1772, 1773, 1776 of this title.

§ 1754. Food service equipment assistance; amount; apportionment

Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 1752 of this title, $10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, food service equipment assistance for the school-lunch program pursuant to the provisions of this chapter. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $10,000,000, and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards, set forth in section 1753 of this title with respect to the apportionment for agricultural commodities and other foods.

(June 4, 1946, ch. 281, § 5, 60 Stat. 231, amended July 12, 1952, ch. 669, § 1(b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87-688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87-823, § 3(a), 76 Stat. 945; Nov. 10, 1977, Pub. L. 95-166, § 3, 91 Stat. 1332.)

AMENDMENTS

1977—Pub. L. 95-166 substituted "food service equipment assistance" for "nonfood assistance".

§ 1755. Direct expenditures for agricultural commodities and other foods

(a) Administrative expenses; nutritional education; pilot projects; cash-in-lieu of commodities study; refusal of commodities and receipt of other commodities available to the State in lieu of the refused commodities

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 thereof [42 U.S.C. 1772] less

[*See main edition for text of (1) and (2)*]

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 [42 U.S.C. 1772], which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 1769 of this title, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 1751 of this title, and section 2 of the Child Nutrition Act of 1966 [42 U.S.C. 1771],

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] in accordance with the needs as determined by the local school and service institution authorities. Any school participating in food service programs under this chapter may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year. The provisions of law contained in the proviso of section 713c of title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this chapter and the Child Nutrition Act of 1966.

(b) Cash donations in lieu of commodity donations during school year for school food service programs; funds for States administered by Secretary: withholding; disbursement for breakfasts and lunches

Not later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authroized under subsection (e) of this section, the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection (e) of this section. In any

State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse, such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.

[*See main edition for text of* (c) *and* (d)]

(e) Level of commodity assistance; emphasis on high protein foods

For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each school year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.

(As amended Nov. 10, 1977, Pub. L. 95-166, §§ 5, 7, 10(1), 19(a), 91 Stat. 1334-1336, 1345.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a), (a)(1), and (a)(3), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166, §§ 7, 10(1), inserted provision which authorized refusal of commodities and receipt of other commodities available to the State, in lieu of the refused commodities, and in cl. (3) authorized grants for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 1769 of this title.

Subsec. (b). Pub. L. 95-166, § 5, in revising the subsection, changed the commodity distribution program to a school year from a fiscal year basis, and among other changes, extended the deadline for estimated valuation and payment to May 15 and June 15 from February 15 and March 15, and deleted provision respecting apportionment among State educational agencies on basis of meals served in all the States during the fiscal year and specific reference to regulations of the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

Subsec. (e). Pub. L. 95-166, § 19(a), substituted "school years" and "school year after June 30, 1975" for "fiscal years" and "fiscal year after June 30, 1975".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (e) by section 19(a) of Pub. L. 95-166 effective July 1, 1977, see section 19 of Pub. L. 95-166.

§ 1756. Payments to States; matching payments by States; makeup and disbursement of State revenue

Funds appropriated to carry out section 1753 or 1754 of this title during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this chapter, as may be entered into by the Secretary and such State educational agencies, for the purpose of assisting schools of the States in supplying (1) agricultural commodities and other foods for consumption by children and (2) food service equipment assistance in furtherance of the school lunch program authorized under this chapter. Such payments to any State in any fiscal year during the period 1947 to 1950, inclusive, shall be made upon condition that each dollar thereof will be matched during such year by $1 from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this chapter. Such payments in any fiscal year during the period 1951 to 1955, inclusive, shall be made upon condition that each dollar thereof will be so matched by one and one-half dollars; and for any fiscal or school year thereafter, such payments shall be made upon condition that each dollar will be so matched by $3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal or school year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 1759 of this title, respectively, have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 1759 of this title, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school-lunch program. For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifi-

cally for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 1753 and 1759a of this title and sections 1773 and 1774 of this title. The requirement in this section that each dollar of Federal assistance be matched by $3 from sources within the State (with adjustments for the per capita income of the State) shall not be applicable with respect to the payments made to participating schools under section 1753 of this title for free and reduced price lunches: *Provided*, That the foregoing provision shall not affect the level of State matching required by the sixth sentence of this section. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(As amended Nov. 10, 1977, Pub. L. 95-166, § 19(b), 91 Stat. 1345.)

AMENDMENTS

1977—Pub. L. 95-166, among other changes, substituted in first sentence "Funds appropriated to carry out" and "food service equipment assistance" for "Funds apportioned to any State pursuant to" and "nonfood assistance"; substituted in third sentence "fiscal or school year thereafter" for "fiscal year thereafter"; substituted in fourth sentence "fiscal or school year" for "fiscal year"; and substituted the sixth sentence "For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year" for "For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter at least 10 per centum of the matching requirement for the preceding fiscal year."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of first, third, fourth, and sixth sentences by section 19(b) of Pub. L. 95-166 effective July 1, 1977, see section 19 of Pub. L. 95-166.

§ 1757. State disbursement to schools; purpose; food costs; limitation

Funds paid to any State during any fiscal year pursuant to sections 1753 or 1754 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary, as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and food service equipment assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this chapter during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount. Lunch assistance disbursements to schools under this section and under section 1759a of this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(As amended Nov. 10, 1977, Pub. L. 95-166, § 3, 91 Stat. 1332.)

AMENDMENTS

1977—Pub. L. 95-166 substituted "food service equipment assistance" for "nonfood assistance".

§ 1758. Program requirements

(a) Nutritional standards; medical and special dietary needs of individual students; diminution of food waste; acceptance of offered foods

Lunches served by schools participating in the school-lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students. The Secretary shall establish, in cooperation with State educational agencies, administrative proce-

dures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this chapter without endangering the nutritional integrity of the lunches served by such schools. Students in senior high schools that participate in the school lunch program under this chapter (and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this chapter to any such school for such lunch.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Nov. 10, 1977, Pub. L. 95-166, § 8, 91 Stat. 1335.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166 inserted parenthetical text authorizing students in any grade level in any junior high school or middle school, when approved by the local school district or nonprofit private school, to refuse to accept offered foods they do not intend to consume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1759a, 1760, 1773, 1774 of this title.

§ 1759a. Special assistance funds

(a) Formula for computation of payments; computation of lunches to eligible children in schools funding service to ineligible children from non-Federal sources; special-assistance factors; semi-annual adjustments based on changes in series for food away from home of Consumer Price Index; base period for adjustments

Except as provided in section 1759 of this title, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758(a) of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this chapter with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semi-annual adjustments in the national average rates for lunches served under section 1753 of this title and the special-assistance factor for the lunches served under this section and the national average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773], that shall reflect changes in the cost of operating a school lunch and breakfast program under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further*, That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which such data are available: *Provided further*, That such adjustments shall be computed to

the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

[*See main edition for text of* (*b*) *to* (*e*)]

(As amended Nov. 10, 1977, Pub. L. 95-166, § 9, 91 Stat. 1336.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166 provided for special-assistance payments to the State educational agency where 80 percent of children in attendance during the school year are eligible for free lunches or reduced-price lunches and for determination of number of lunches served to children eligible for free lunches and reduced-price lunches where the school serves all students, eligible and noneligible, and funds for noneligible students are from other than Federal funds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1757, 1766, 1773, 1776 of this title.

§ 1760. State accounts and records; inspection and audit; period of retention; definition

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Definitions

For the purposes of this chapter—

[*See main edition for text of* (*1*) *and* (*2*)]

(3) "Food service equipment assistance" means equipment used by schools in storing, preparing, or serving food for school children.

[*See main edition for text of* (*4*) *to* (*6*)]

(7) "School year" means the annual period determined in accordance with regulations issued by the Secretary.

[*See main edition for text of* (*e*)]

(As amended Nov. 10, 1977, Pub. L. 95-166, §§ 3, 19(c), 91 Stat. 1332, 1345.)

AMENDMENTS

1977—Subsec. (d)(3). Pub. L. 95-166, § 3, substituted "food service equipment assistance" for "nonfood assistance".

Subsec. (d)(7). Pub. L. 95-166, § 19(c), added par. (7).

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (d)(7) by section 19(c) of Pub. L. 95-166 effective July 1, 1977, see section 19 of Pub. L. 95-166.

§ 1761. Summer food service programs for children in service institutions

(a) Assistance to States; definitions; facilities to be used; eligible service institutions; order of priority in participation; assistance to rural area eligible service institutions to participate in the programs; reimbursement of camps, limitation

(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) "program" means the summer food service program for children authorized by this section; (B) "service institutions" means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.]; (C) "areas in which poor economic conditions exist" means areas in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public school program established for the mentally or physically handicapped; and (E) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

(C) either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

(B) service institutions that prepare meals at their own facilities or operate only one site;

(C) service institutions that use local school food facilities for the preparation of meals;

(D) other service institutions that have demonstrated ability for successful program operation; and

(E) service institutions that plan to integrate the program with Federal, State, or local employment programs.

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligiblity requirements for free or reduced price meals, as determined under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(b) Payments to service institutions; food service operations costs: adjustments in maximum reimbursement levels; meals per day limitation; budget for administrative costs: submittal and approval by State; administrative cost payments: maximum allowable levels; study of food service operations and administrative costs: report to Congress

(1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided,* That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided further,* That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.

(2) Any service institution shall be permitted to serve up to three meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap. Such meals may include a breakfast, a lunch, a supper, and meal supplements.

(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

(i) an evaluation of meal quality as related to costs; and

(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c) Payments for meals served during May through September; exceptions for continuous school calendars

Payments shall be made to service institutions only for meals served during the months of May through September, except in the case

of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar.

(d) Advance program payments to States for monthly meal service; letters of credit, forwarding to States; determination of amount; valid claims, receipt

Not later than April 15, May 15, and July 1, of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e) Advance program payments to service institutions for monthly meal service; certification of personnel training sessions; minimum days per month operations requirement; payments: computation, limitation; valid claims, receipt; withholding; demand for repayment; subtraction of disputed payments

(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: *Provided*, That (A) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f) Nutritional standards; free cost meals to children in approved institutions; camp services, charges for meals to ineligible children; quality assurance, model specifications and standards; meal preparation contracts, requirements; inspection and testing

Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section. To assure meal quality, States shall, with the assistance of the Secretary, prescribed model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(g) Regulations, guidelines, applications, and handbooks; publication; startup costs

The Secretary shall publish proposed regulations relating to the implementation of the pro-

gram by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year: *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

(h) Direct disbursement to service institutions by Secretary

Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 1431 of title 7, or purchased under section 612c of title 7 or section 1446a-1 of title 7. Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(i) Administration of program by Secretary, in event of nonadministration by the State, and direct disbursement to service institutions; notification

If any State (1) is unable for any reason to disburse the funds otherwise payable to it under this section, or (2) does not operate the program in accordance with the requirements of this section, the Secretary shall assume authority for administration of the program in such State, and shall disburse the funds directly to service institutions in the State for the same purposes and subject to the same conditions as are required of a State disbursing funds made available under this section. In cases described in clause (1) of the preceding sentence, the State shall notify the Secretary, not later than January 1 of each fiscal year in which the program is operated, of its intention not to administer the program.

(j) Administrative expenses of Secretary; authorization of appropriations

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k) Administrative costs of State; payment; adjustment; standards and effective dates, establishment; funds: withholding, inspection

(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $50,000 in funds distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $100,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2 percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(l) Food service management companies; subcontracts; assignments, conditions and limitations; meal capacity information in bids subject to review; registration; record, availability to States; small and minority-owned businesses for supplies and services; contracts: standard form, bid and contract procedures, bonding requirements and exemption, review by States, collusive bidding safeguards

(1) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or

food service management company that received program funds in any prior fiscal year;

(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

(m) Accounts and records

States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Management and administration plan; notification and submittal to Secretary; specific provisions

Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (3) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4) the State's plans and schedule for providing technical assistance and training eligible service institutions; (5) the State's schedule for application by service institutions; (6) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (7) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State's plan and schedule for registering food service management companies; (9) the State's plan for timely and effective action against program violators; (10) the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments; (11) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (12) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.

(o) Violations and penalties

(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property in-

volved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(p) Authorization of appropriations

For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(As amended Nov. 10, 1977, Pub. L. 95-166, § 2, 91 Stat. 1325.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a)(1) and (5) is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166, in revising subsec. (a), among other changes: reenacted par. (1); inserted therein cl. (A) definition of "program"; reenacted as cl. (B) definition of "service institutions", inserting therein development of "school vacation" programs; reenacted as cl. (C) definition of "areas in which poor economic conditions exist" definition of "poor economic conditions" of former par. (3), substituting "as determined by information" for "as shown by information" and "served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program" for "served to children attending schools located in the area of summer food sites, or from other applicable sources" and striking out reference to information provided from model city target areas; inserted cl. (D) definition of "children"; reenacted as cl. (E) definition of "State" last sentence of former par. (3), extending the term to include the Northern Mariana Islands; enacted par. (2), which incorporated part of former par. (1) which had read "To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools."; enacted par. (3), which incorporated part of former par. (2) which had read "Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance."; and added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 95-166 incorporated existing provisions in part in text designated par. (1); substituted "Payments" for "Disbursements" increased the payments for cost of lunch and supper, breakfast, and each meal supplement to 85.75 from 75.5, to 47.75 from 42, and to 22.50 from 19.75 cents respectively; substituted provision for adjustment of rates each January 1 based on the Consumer Price Index for twelve-month period ending November 30 for prior such provision for adjustment each March 1 based on the Index for year ending January 31; exclude from cost of food service operations administrative costs; and authorized adjustments, as appropriate, in the maximum reimbursement levels.

Subsec. (b)(2). Pub. L. 95-166 added par. (2) which incorporated in part existing provision which formerly stated that no institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

Subsec. (b)(3). Pub. L. 95-166 added par. (3) which supersedes part of existing provisions prescribing administrative costs of lunch and supper, breakfast, and meal supplement not to exceed 6, 3, and 1.5 cents respectively.

Subsec. (b)(4). Pub. L. 95-166 added par. (4).

Subsec. (c). Pub. L. 95-166 substituted "Payments" for "Disbursements" and "except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar" for "except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section".

Subsec. (d). Pub. L. 95-166, in revising the text, substituted provision for advance program payment to States through letters of credit forwarded no later than April 15, May 15, and July 1, of each year for prior provision for forwarding advance payments no later than June 1, July 1, and August 1 of each year; inserted computation of payment amount provision; struck out prior provision for an amount no less than (1) the total payment made to the State for meals served for the calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the month, whichever is the greater, now covered in subsec. (e)(2) of this section; substituted provision for forwarding payments to States operating a program in months other than May through September by the first day of the month prior to the month in which the program is conducted for prior provision for receipt of advance payments not later than the first day of each month involved where institutions operate programs during nonsummer vacations during a continuous school year calendar; reenacted provision for payments within sixty days of receipt of valid claims; and struck out provision declaring that any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day, now covered in subsec. (e)(2) of this section.

Subsec. (e). Pub. L. 95-166 added subsec. (e), which in incorporating in part provisions of former subsec. (d), substituted in par. (1) July 15 and August 15 for July 1 and August 1 and reenacted provision for payment not later than the first day of each month of operation where service institutions operate under a continuous school calendar, and in par. (2) substituted provision for computation of amount which is the greatest of the amount described in cls. (A), (B), and (C) for prior provision for such computation which is the greater of (1) the total payment made to the State for meals served for the calendar month of the preceding calendar year (now covered in cl. (A)) or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the month (now covered in cl. (C)). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 95-166 redesignated former subsec. (e) as (f); substituted in first sentence "receiving funds" for "to which funds are disbursed"; and

added provisions respecting: charging ineligible children for meals served in camps, model specifications and standards for quality assurance, meal preparation contract requirements, and inspection and testing. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-166 redesignated former subsec. (f) as (g); required publication of proposed regulations by November 1, instead of January 1, final regulations by January 1, instead of March 1, and guidelines, applications, and handbooks by February 1, instead of March 1, of each fiscal year; inserted the proviso; substituted provision for payment of startup costs limited to 20 percent of administrative funds provided for in the administrative budget for prior limitation to 10 per centum of Federal funds provided the service institutions for meals served under this section during the preceding summer; and substituted provision for subtraction of startup costs from amounts otherwise payable for administrative costs made to the service institutions for prior provision for such reduction from payments made for meals served under subsec. (b) of this section. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-166 redesignated former subsec. (g) as (h), struck out "participating" preceding "service institution" and ", either nationally or in the institution area, or foods donated by the Secretary" following "abundance", and substituted provision for donation of available or purchased food to States, for distribution to service institutions that can use commodities efficiently and effectively, as determined by the Secretary for prior provision for donation by the Secretary of available or purchased foods, irrespective of amount of appropriated funds, to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding program. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95-166 redesignated former subsec. (h) as (i), authorized Secretary's administration of the program when the State is unable for any reason to disburse the funds otherwise payable or does not operate the program as required by this section, prior provision only requiring direct disbursements when the the State educational agency was not permitted by law or was otherwise unable to disburse the funds, and required State notification of the Secretary of its intention not to administer the program. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 95-166 redesignated former subsec. (i) as (j). Former subsec. (j) redesignated (p).

Subsec. (k). Pub. L. 95-166 added subsec. (k) and struck out prior subsec. (k) requiring the Secretary to pay administrative costs of each State in an amount equal to 2 per centum of funds distributed to the State and prescribing minimum sum of $10,000 each fiscal year, except where distribution of funds to the State totals less than $50,000 for the fiscal year.

Subsec. (*l*). Pub. L. 95-166 added subsec. (*l*) and struck out prior subsec. (*l*) which provided that nothing in this section should be construed to preclude a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

Subsec. (m). Pub. L. 95-166 struck out ", State educational agencies," following "States".

Subsecs. (n), (o). Pub. L. 95-166 added subsecs. (n) and (o).

Subsec. (p). Pub. L. 95-166 redesignated former subsec. (j) as (p) and made authorization applicable to fiscal years beginning Oct. 1, 1977, and ending Sept. 30, 1980.

§ 1762a. Commodity distribution program

(a) Applicable period; use of funds for purchase of agricultural commodities and products for donation

Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1982, shall—

[*See main edition for text of (1) and (2)*]

(b) Products included in food donations

Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(c) Authorization of appropriations for purchase of products or for cash payments in lieu of donations

The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 3045f(a)(4) of this title or for cash payments in lieu of such donations under section 3045f(d)(1) of this title. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) Assistance procedures; cost and benefits, review; technical assistance; report to Congress; food quality standards contracting procedures

In providing assistance under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

Within eighteen months after November 10, 1977, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this chapter and the Child Nutrition Act of 1966, the Secretary shall establish

procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

(e) State advisory councils; establishment; membership; function

Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(As amended Nov. 10, 1977, Pub. L. 95-166, § 6, 91 Stat. 1334.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1) and (d), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13(A) (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166, § 6(1), extended termination date for termination of commodity distribution program to Sept. 30, 1982, from Sept. 30, 1977.

Subsecs. (c) to (e). Pub. L. 95-166, § 6(2), added subsecs. (c) to (e).

§ 1763. National Advisory Council on Child Nutrition

(a) Establishment; membership

There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of nineteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof) one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member, shall be a classroom teacher, two members shall be parents of children in schools that participate in the school lunch program under this chapter, two members shall be senior high school students who participate in the school lunch program under this chapter, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) Terms of members

The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

[*See main edition for text of* (c) *to* (g)]

(h) Compensation and travel expenses

Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

(As amended Nov. 10, 1977, Pub. L. 95-166, § 16, 91 Stat. 1344.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166, § 16(1), (2), increased to nineteen from fifteen the membership of the Council and included as members two parents of children in schools participating in the school lunch program and two senior high school students participating in the school lunch program.

Subsec. (b). Pub. L. 95-166, § 16(3), substituted provision for appointment of fifteen members from outside Department of Agriculture for two year terms for prior such appointment of eleven members for three year terms; inserted provision for 1978 appointment of a parent and high school senior for two years and also for one year; reduced regular term to two from three years; required parent and high school senior appointees to be members of nutrition councils or committees advising and guiding school officials in the school lunch program and a balanced rural and urban representation between parents and students in appointment of such persons; and struck out original provision for appointment of three members for three years, for two years, and for one year.

Subsec. (h). Pub. L. 95-166, § 16(4), added proviso respecting compensation of parent members of the Council.

§ 1766. Child care food program

[*See main edition for text of (a) to (d)*]

(e) Donation of agricultural commodities; cash in lieu of commodities

Irrespective of the amount of funds appropriated under this section, foods available under section 1431 of title 7 or purchased under section 612c of title 7, or section 1446a-1 of title 7, shall be donated by the Secretary of Agriculture to institutions participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities (or, upon the application of a State educational agency, cash in lieu of commodities in such amounts as may be provided in appropriations Acts) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions during that school year by the rate for commodities and cash in lieu thereof established for that school year in accordance with the provisions of section 1755(e) of this title.

[*See main edition for text of (f) to (i)*]

(j) Food service equipment assistance; apportionment; apportionment of unused funds

(1) Of the sums appropriated for any fiscal year pursuant to the authorization contained in this section, $3,000,000 shall be available to the Secretary for the purposes of providing, during each such fiscal year, food service equipment assistance for the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $3,000,000: *Provided*, That such an apportionment shall be made according to the ratio among the States of the number of children below age 6 who are members of households which have an annual income not above 125 per centum of the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary under section 1758(b) of this title.

[*See main edition for text of (2); (k)*]

(As amended Nov. 10, 1977, Pub. L. 95-166, §§ 3, 19(d), 91 Stat. 1332, 1345.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-166, § 19(d), substituted in last sentence "school year" for "fiscal year" in three instances.

Subsec. (j)(1). Pub. L. 95-166, § 3, substituted "food service equipment assistance" for "nonfood assistance".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (e) by section 19(d) of Pub. L. 95-166 effective July 1, 1977, see section 19 of Pub. L. 95-166.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1772, 1776 of this title.

§ 1769. Pilot projects

(a) Statement of purpose; project contents

The Secretary shall conduct pilot projects with respect to local school districts or other appropriate units, or groups of program participants, for the purpose of determining whether there may be more efficient, healthful, economical, and reliable methods of operating school lunch, school breakfast, and summer feeding programs under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and methods for operating such programs that will result in improved delivery of benefits thereunder in accordance with the purposes of this chapter and such Act. Such projects shall, notwithstanding any other provision of law, include (1) not more than ten projects providing participating schools or other institutions the option of receiving all or part cash assistance in lieu of commodities under this chapter and such Act for such nutrition programs operated in such schools or institutions, (2) projects designed to streamline or reduce reporting requirements by local school districts, and (3) projects using the United States Department of Agriculture Extension Service to aid in nutrition training and education in schools and other institutions.

(b) Study

The Secretary shall conduct a study to analyze the impact and effect of cash payments in lieu of commodities. The study shall be limited to a comparison between a State that phased out its commodity distribution facilities prior to June 30, 1974, and elected to receive cash payments in lieu of donated foods, and a State not eligible for cash payments in lieu of donated foods. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, and the impact on plate waste in school lunch and breakfast programs.

(c) Report to Congress; contents

The Secretary shall report to Congress, not later than eighteen months after November 10, 1977, on the results of the pilot projects and study conducted under this section. In connection with such pilot projects, such report shall include an assessment of the methods employed in such projects for operating school lunch, school breakfast, and summer feeding programs, in terms of the following factors—

(1) the administrative feasibility and nutritional impact;

(2) the cost savings that may be effected at Federal, State, and local levels;

(3) the impact on Federal programs designed to provide adequate income to farmers;

(4) the impact on the quality of food served; and

(5) the impact on plate waste.

(June 4, 1946, ch. 281, § 20, as added Nov. 10, 1977, Pub. L. 95-166, § 10(2), 91 Stat. 1336.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1755 of this title.

§ 1769a. Reduction of paperwork; report to Congress

In carrying out functions under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], the Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under this chapter and such Acts. The Secretary shall report to Congress not later than one year after November 10, 1977, on the extent to which a reduction in such paperwork has occurred.

(June 4, 1946, ch. 281, § 21, as added Nov. 10, 1977, Pub. L. 95-166, § 13, 91 Stat. 1338.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

CHAPTER 13A—CHILD NUTRITION

Sec.
1788. Nutrition education and training [New].
(a) Congressional findings.
(b) Statement of purpose.
(c) Definitions.
(d) Nutrition information and training; grants; coordination with other nutrition activities; coordination with Department of Health, Education, and Welfare: transfer of funds; State contracts: nutrition training grants and pilot projects; private schools, program administration.
(e) Agreements with State agencies; regulations.
(f) Use of funds; planning and assessment grants; administrative expenses.
(g) Accounts, records, and reports; inspection, audit, and preservation.
(h) State coordinators for nutrition; duties; budget and need assessment; State plan, contents; review, public hearings.
(i) Authorization of appropriations; enrollment data.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1752, 1755, 1759a, 1761, 1762, 1762a, 1763, 1765, 1767, 1768, 1769, 1769a of this title.

§ 1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations; eligibility for special milk program; minimum rate of reimbursement

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children who qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk, when milk is made available at times other than the periods of meal service in outlets that operate a food service program under sections 1753, 1766, and 1773 of this title. For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the series of food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

(As amended Pub. L. 95-166, §§ 11, 20(1), (2), Nov. 10, 1977, 91 Stat. 1337, 1346.)

AMENDMENTS

1977—Pub. L. 95-166, §§ 11, 20(1), (2), provided free milk for children when milk is made available at times other than the periods of meal service in outlets that operate a food service program under sections 1753, 1766, and 1773 of this title, and substituted "school years" and "annual basis each school year" for "fiscal years" and "annual basis each fiscal year" and deleted "thereafter, beginning with the fiscal year ending June 30, 1976," preceding "to reflect changes".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 20(1) of Pub. L. 95-166 effective July 1, 1977, see section 20 of Pub. L. 95-166.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1775, 1776, 1780 of this title.

§ 1773. School breakfast program

[*See main edition for text of* (a)]

(b) Apportionment of funds to States; national average payment for breakfasts, reduced-price breakfasts, and free breakfasts; additional payments, severe need: maximum payment for free and reduced price breakfasts

(1) Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion $2,600,000 equally among the States other than Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and $45,000 equally among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 1753 of this title. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfasts payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided,* That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast.

(2)(A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced-price meal at schools that are in severe need.

(B) The maximum payment for each such free breakfast shall be the higher of—

(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

(ii) 45 cents, which shall be adjusted on a semiannual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent six-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

(C) The maximum payment for each such reduced-price breakfast shall be five cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph.

[*See main edition for text of* (c)]

(d) Severe need assistance; eligibility standards; receipt of lesser of operating costs of breakfast program or meal reimbursement rate

Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need where the rate per meal established by the Secretary is insufficient to carry out an effective breakfast program in such a school. Such eligibility standards shall be submitted to the Secretary for approval and included in the State plan of child nutrition operations required by section 1759a(e)(1) of this title. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of subsection (b) of this section, whichever is less.

[*See main edition for text of* (e) *to* (g)]

(As amended Pub. L. 95-166, § 12, Nov. 10, 1977, 91 Stat. 1337.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-166, § 12(1), (2), designated existing provisions as par. (1) and as so designated struck out provision for payment of up to 45 cents for breakfasts served to children qualifying for a free breakfast in cases of severe need, which is now covered in par. (2).

Subsec. (b)(2). Pub. L. 95-166, § 12(3), added par. (2).

Subsec. (d). Pub. L. 95-166, § 12(4), substituted requirement that the Secretary establish eligibility

standards for providing additional assistance to schools in severe need for prior requirement that the State educational agency require applicant schools to provide justification of the need for such assistance; required the eligibility standards to be submitted to the Secretary for approval and to be included in the State plan of child nutrition operations and submission of appropriate documentation about the need circumstances in the school and the school's eligibility for additional assistance; and authorized payment of the lesser of 100 percent of the operating costs or the meal reimbursement rate, previously limited to the 100 percent payment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1759a, 1766, 1772, 1775, 1776, 1777, 1780 of this title.

§ 1774. Food service equipment assistance program

(a) Establishment; equipment required for food service programs; authorization of appropriations

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed $38,000,000, for the fiscal year ending June 30, 1972, not to exceed $33,000,000, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed $40,000,000 and for each succeeding fiscal year, not to exceed $40,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand schools food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this chapter and in the National School Lunch Act, as amended [42 U.S.C. 1751 et seq.].

(b) Apportionment of funds to States; reapportionment of funds; matching funds requirement inapplicable to especially needy schools; order of priority; availability of remaining funds

Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9 of the National School Lunch Act [42 U.S.C. 1758]) served in each State in the latest preceding school year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding school year. If any State cannot utilize all of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary. States shall apportion their share of funds under this subsection by giving priority to schools without a food service program and schools without the facilities to prepare and cook hot meals at the schools (including schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals) or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools. After making funds available to such schools, the State shall make the remaining funds available to schools with a food service program and with the facilities to prepare and cook hot meals at the schools or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools, for the purpose of purchasing needed replacement equipment.

[*See main edition for text of* (c)]

(d) Nonprofit private schools

If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act [42 U.S.C. 1758(a)]) served in nonprofit private schools in such State in the latest preceding school year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding school year.

(e) Reservation of funds; State apportionment; funds for States administered by Secretary; withholding; reapportionment of funds; matching funds requirement inapplicable to especially needy schools

For the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, 33⅓ percent of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. The Secretary shall apportion the funds so reserved among the States on the basis

of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals. In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by the State, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If any State cannot use all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionment to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If after such further apportionment, any funds received under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section. Payment to any State of funds under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools that are especially needy, as determined by criteria established by each State and approved by the Secretary.

(f) Funds for food service program of hot meals prepared and cooked by the school, or received by the school; necessity of alternative method of meal preparation; conditions for use of funds for food service facilities located at institution providing the school lunch or breakfast program

(1) Funds authorized for the purposes of this section shall be used only for facilities that enable schools, or local public or private nonprofit institutions under the conditions prescribed in paragraph (2) of this subsection, to prepare and cook hot meals or receive hot meals at the school or institution unless the school can demonstrate to the satisfaction of the State (or, in the case of nonprofit private schools in States where the Secretary administers the food service equipment program in such schools, to the satisfaction of the Secretary) that an alternative method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast program in such school or to improve the consumption of food or the participation of eligible children in the program.

(2) If a school authorized to receive funds under this section cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private nonprofit institution to provide the school lunch or breakfast program for children attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (A) the school retains legal title to such facilities and, (B) in the case of funds made available under subsection (e) of this section, the institution would otherwise be without such facilities.

(As amended Pub. L. 95-166, §§ 4, 20(3), (4), Nov. 10, 1977, 91 Stat. 1332, 1346.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-166, § 4(4), struck out authorization of transfer of equipment no longer used at a nonprofit private school principally in connection with authorized child feeding programs to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, absent such disposition, of reversion to the United States of that part of the equipment financed with Federal funds, or the residual value thereof.

Subsec. (b). Pub. L. 95-166, §§ 4(1), 20(3), substituted "such condition shall not apply with respect to funds used under this section to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary" for "such conditions shall not apply with respect to funds used under this section to assist schools if such schools are especially needy, as determined by the State" and added provisions respecting apportionment of funds on basis of priority to certain schools and availability of remaining funds to other schools with a food service program and with facilities to prepare and cook hot meals at the schools; and substituted in first sentence "school year" for "fiscal year" in two instances.

Subsec. (d). Pub. L. 95-166, § 20(4), substituted "school year" for "fiscal year" in two instances.

Subsec. (e). Pub. L. 95-166, § 4(2), redesignated the program to be known as the "food service equipment assistance program", previously known as the "nonfood assistance program"; extended reservation of funds for fiscal years ending Sept. 30, 1978, through Sept. 30, 1980; deleted prior fund reservation provision applicable to fiscal year ending June 30, 1976, period July 1, 1976, through Sept. 30, 1976, and fiscal year ending Sept. 30, 1977; included within category of eligible schools the schools without facilities to cook hot meals; and required each State to establish criteria, approved by the Secretary, for determination of especially needy schools.

Subsec. (f). Pub. L. 95-166, § 4(3), added subsec. (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (b) and (d) by section 20(3), (4) of Pub. L. 95-166 effective July 1, 1977, see section 20 of Pub. L. 95-166.

§ 1776. State administrative expenses

(a) Amount of payment; minimum amount; audit expenses

(1) The Secretary shall pay to each State for its administrative costs incurred pursuant to the administration of this chapter and the National School Lunch Act [42 U.S.C. 1751 et seq.] for the fiscal year ending September 30, 1978, an amount equal to 1 percent, and for each of the fiscal years ending September 30, 1979, and September 30, 1980, an amount not less than 1 percent and not greater than 1½ percent of the funds used by each State under sections 4, 11, and 17 of the National School Lunch Act [42 U.S.C. 1753, 1759a, 1766] and under sections 1772, 1773, and 1774 of this title during the second fiscal year preceding the fiscal year for which the amounts are to be paid: *Provided*, That in no case shall the payment to any State under this section be less than $75,000 per year nor shall any State receive less than the amount allocated to it for fiscal year 1977. The percentages specified in the foregoing sentence shall apply only to the first $100,000,000 in funds used under the prescribed sections of law. For those funds used that exceed $100,000,000, the Secretary shall pay an amount equal to 1 percent of such funds.

(2) The Secretary shall make available to States administering the child care food program, for the purpose of conducting audits of participating child care institutions, an amount up to 2 percent of the funds used by each State under section 17 of the National School Lunch Act [42 U.S.C. 1766] during the second fiscal year preceding the fiscal year for which the amount is to be paid.

(b) State staffing standards for planning and administration of covered programs

The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act [42 U.S.C. 1753, 1759a, 1766], and sections 1772, 1773, and 1774 of this title, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

(c) Funds, usage: compensation, benefits, and travel expenses of personnel; support services; office equipment; staff development

Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

(d) Fund adjustment; State administered programs

If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

(e) Unused funds; availability for obligation and expenditure, and reallocation to other States

Notwithstanding any other provision of law, funds available to each State under this section for fiscal year 1978 that are not obligated or expended in that fiscal year shall remain available for obligation and expenditure by that State in fiscal year 1979. For fiscal year 1979, and the succeeding fiscal year, the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary deems appropriate.

(f) Commodity distribution program

The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

(g) State plan; use of funds

Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(h) State funding requirement

Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this chapter (except section 1786 of this title) and the National School Lunch Act [42 U.S.C. 1751 et seq.] (except section 13 of that Act [42 U.S.C. 1761]), not less than the amount expended or obligated in fiscal year 1977.

(i) Authorization of appropriations

For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

(As amended Pub. L. 95-166, § 14, Nov. 10, 1977, 91 Stat. 1338.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in subsecs. (a)(1) and (h), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

AMENDMENTS

1977—Subsecs. (a) to (i). Pub. L. 95-166 added subsecs. (a) to (i) and struck out prior provisions authorizing the Secretary to utilize appropriated funds for advances to State educational agencies for use for administrative expenses, advancing the fund only in necessary amounts and for administration of certain activities, and authorizing appropriation of necessary sums, now incorporated in subsec. (i) of this section.

§ 1779. Rules and regulations; transfer of funds from one program to another; special projects

The Secretary shall prescribe such regulations as he may deem necessary to carry out

this chapter and the National School Lunch Act [42 U.S.C. 1751 et seq.], including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this chapter and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this chapter or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this chapter and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

(As amended Pub. L. 95-166, § 17, Nov. 10, 1977, 91 Stat. 1345.)

AMENDMENTS

1977—Pub. L. 95-166 inserted "approved by the Secretary" following "competitive foods".

§ 1784. Definitions

For the purposes of this chapter—

[*See main edition for text of* (*a*) *to* (*d*)]

(e) "School year" means the annual period determined in accordance with regulations issued by the Secretary.

(As amended Pub. L. 95-166, § 20(5), Nov. 10, 1977, 91 Stat. 1346.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-166 added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-166 effective July 1, 1977, see section 20 of Pub. L. 95-166.

§ 1786. Special supplemental food program

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Limitations of administrative costs; approval of manner of expenditure

Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 20 per centum of the program funds provided to each State under the authority of this section. Each health department or comparable agency of each State, Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare receiving funds from the Secretary under this section shall, each year by not later than a date specified by the Secretary, for approval by the Secretary as a prerequisite to receipt of funds under this section, submit a description of the manner in which administrative funds shall be spent, including, but not limited to, a description of the manner in which nutrition education services will be provided. The Secretary shall take affirmative action to insure that programs begin in areas most in need of special supplemental food. During the first 3 months of any program, or until the program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully.

[*See main edition for text of* (*e*) *to* (*g*)]

(h) National Advisory Council on Maternal, Infant, and Fetal Nutrition; establishment; membership; term; officers; meetings; quorum; functions; compensation

[*See main edition for text of* (*1*) *to* (*7*)]

(8) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That parent recipient members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

(As amended Pub. L. 95-166, §§ 18, 20(6), Nov. 10, 1977, 91 Stat. 1345, 1346.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-166, § 20(6), substituted "each year by not later than a date specified by the Secretary" for "by January 1 of each year (by December 1 in the case of fiscal year 1976)".

Subsec. (h)(8). Pub. L. 95-166, § 18, added proviso respecting compensation of parent recipient members of the Council.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (d) by Pub. L. 95-166 effective July 1, 1977, see section 20 of Pub. L. 95-166.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776 of this title.

§ 1788. Nutrition education and training

(a) Congressional findings

Congress finds that—

(1) the proper nutrition of the Nation's children is a matter of highest priority;

(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

(b) Statement of purpose

It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

(c) Definitions

For purposes of this section, the term "nutrition information and education program" means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training school food service personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; and (D) developing and using classroom materials and curricula.

(d) Nutrition information and training; grants; coordination with other nutrition activities; coordination with Department of Health, Education, and Welfare: transfer of funds; State contracts: nutrition training grants and pilot projects; private schools, program administration

(1) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) the food service management training of school food service personnel, and (C) the conduct of nutrition education activities in schools and child care institutions.

(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; and other interested groups and individuals concerned with improvement of child nutrition.

(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized in this section available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301-305, 307, and 308), or the act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

(6) Notwithstanding any other provision of this section, if, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

(e) Agreements with State agencies; regulations

The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

(f) Use of funds; planning and assessment grants; administrative expenses

(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutrition education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

(3) An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section.

(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

(g) Accounts, records, and reports; inspection, audit, and preservation

(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

(h) State coordinators for nutrition; duties; budget and need assessment; State plan, contents, review, public hearings

(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in paragraph (2) of this subsection, prepare a State plan as provided in paragraph (3) of this subsection, and coordinate programs under this chapter with all other nutrition education programs provided by the State with Federal or State funds.

(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

(j)[1] Authorization of appropriations; enrollment data

(1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than $75,000 per year.

(2) For the fiscal year beginning October 1, 1979, there is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs, an amount equal to the higher of (A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) $75,000 for each State. Grants to each State from such appropriations shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than $75,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

(3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

(Pub. L. 89-642, § 19, as added Pub. L. 95-166, § 15, Nov. 10, 1977, 91 Stat. 1340.)

REFERENCES IN TEXT

Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301 to 305, 307, and 308), referred to in subsecs. (d)(4), (5) and (h)(3), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321 to 326 and 328), referred to in subsecs. (d)(4), (5) and (h)(3), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, known as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] So in original. No subsec. (i) has been enacted.

CHAPTER 15B—AIR POLLUTION CONTROL

§§ 1857 to 1857c-9. Transferred

CODIFICATION

Section 1857, act July 14, 1955, ch. 360, title I, § 101, formerly § 1, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 392, renumbered and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(2), (3), 79 Stat. 992; Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 485, which related to Congressional findings and declaration of purpose, was transferred to section 7401 of this title.

Section 1857a, act July 14, 1955, ch. 360, title I, § 102, formerly § 2, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 393, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 485; Dec. 31, 1970, Pub. L. 91-604, § 15(c)(2), 84 Stat. 1713, which related to cooperative activities, was transferred to section 7402 of this title.

Section 1857b, act July 14, 1955, ch. 360, title I, § 103, formerly § 3, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 394, renumbered and amended Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(3), 103, 79 Stat. 992, 996; Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 486; Dec. 31, 1970, Pub. L. 91-604, §§ 2(a), 4(2), 15(a)(2), (c)(2), 84 Stat. 1676, 1689, 1710, 1713, which related to research, investigations, training, and other activities, was transferred to section 7403 of this title.

Section 1857b-1, act July 14, 1955, ch. 360, title I, § 104, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 487, and amended Dec. 5, 1969, Pub. L. 91-137, 83 Stat. 283; Dec. 31, 1970, Pub. L. 91-604, §§ 2(b), (c), 13(a), 15(c)(2), 84 Stat. 1676, 1677, 1709, 1713; Apr. 9, 1973, Pub. L. 93-15, § 1(a), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(a), 88 Stat. 265, which provided for research relating to fuels and vehicles, was transferred to section 7404 of this title.

Section 1857c, act July 14, 1955, ch. 360, title I, § 105, formerly § 4, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 395, renumbered and amended § 104, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(2)-(4), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 3, 80 Stat. 954, renumbered and amended § 105, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 489; Dec. 31, 1970, Pub. L. 91-604, §§ 3(a), (b)(1), 15(c)(2), 84 Stat. 1677, 1713, which related to grants for support of air pollution planning and control programs, was transferred to section 7405 of this title.

Section 1857c-1, act July 14, 1955, ch. 360, title I, § 106, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 490, and amended Dec. 31, 1970, Pub. L. 91-604, § 3(c), 84 Stat. 1677, which related to interstate air quality agencies and program cost limitations, was transferred to section 7406 of this title.

Section 1857c-2, act July 14, 1955, ch. 360, title I, § 107, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678, which related to air quality control regions, was transferred to section 7407 of this title.

Section 1857c-3, act July 14, 1955, ch. 360, title I, § 108, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678, which related to air quality criteria and control techniques, was transferred to section 7408 of this title.

Section 1857c-4, act July 14, 1955, ch. 360, title I, § 109, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1679, which related to procedure for and promulgation of national primary and secondary ambient air quality standards, was transferred to section 7409 of this title.

Section 1857c-5, act July 14, 1955, ch. 360, title I, § 110, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1680, and amended June 22, 1974, Pub. L. 93-319, § 4, 88 Stat. 256; S. Res. 4, Feb. 4, 1977, which related to state implementation plans for national primary and secondary ambient air quality standards, was transferred to section 7410 of this title.

Section 1857c-6, act July 14, 1955, ch. 360, title I, § 111, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1683, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(f), 85 Stat. 464, which related to standards of performance for new stationary sources, was transferred to section 7411 of this title.

Section 1857c-7, act July 14, 1955, ch. 360, title I, § 112, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1685, which related to national emission standards for hazardous air pollutants, was transferred to section 7412 of this title.

Section 1857c-8, act July 14, 1955, ch. 360, title I, § 113, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1686, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(b), (c), 85 Stat. 464; June 22, 1974, Pub. L. 93-319, § 6(a)(1)-(3), 88 Stat. 259, which related to Federal enforcement procedures, was transferred to section 7413 of this title.

Section 1857c-9, act July 14, 1955, ch. 360, title I, § 114, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1687, and amended June 22, 1974, Pub. L. 93-319, § 6(a)(4), 88 Stat. 259, which related to recordkeeping, inspections, monitoring, and entry, was transferred to section 7414 of this title.

§ 1857c-10. Repealed. Pub. L. 95-95, title I, § 112(b)(1), Aug. 7, 1977, 91 Stat. 709

Section, act July 14, 1955, ch. 360, title I, § 119, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, related to the authority of the Administrator of the Environmental Protection Agency to deal with energy shortages. See section 7413 of this title.

References to section 1857c-10 appearing in section 792 of Title 15, Commerce and Trade, shall be construed to refer to section 7413(d) of Title 42, see Compliance Orders note set out under section 792 of Title 15.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 7, 1977, see section 406 of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§§ 1857d to 1857f-6c. Transferred

CODIFICATION

Section 1857d, act July 14, 1955, ch. 360, title I, § 115, formerly § 5, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 396, renumbered § 105 and amended Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(2), (3), 102, 79 Stat. 992, 995, renumbered § 108 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 491, renumbered § 115 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (b)(2)-(10), 15(c)(2), 84 Stat. 1678, 1688, 1689, 1713, which related to abatement of air pollution by means of conference procedure, was transferred to section 7415 of this title.

Section 1857d-1, act July 14, 1955, ch. 360, title I, § 116, formerly § 109 as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 497, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, § 4(a), (c), 84 Stat. 1678, 1689; June 22, 1974, Pub. L. 93-319, § 6(b), 88 Stat. 259, which related to retention of state authority concerning air pollution, was transferred to section 7416 of this title.

Section 1857e, act July 14, 1955, ch. 360, title I, § 117, formerly § 6, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 106, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, renumbered § 110 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 498, renumbered § 117 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (d), 15(c)(2), 84 Stat. 1678, 1689, 1713, which related to an Air Quality Advisory Board and to advisory committees, was transferred to section 7417 of this title.

Section 1857f, act July 14, 1955, ch. 360, title I, § 118, formerly § 7, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 107, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, renumbered § 111 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499, renumbered § 118 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), 5, 84 Stat. 1678, 1689, which related to control and abatement of air pollution from federal facilities, Presidential exemption, and report to Congress on Presidential exemptions, was transferred to section 7418 of this title.

Section 1857f-1, act July 14, 1955, ch. 360, title II, § 202, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, § 6(a), 84 Stat. 1690; June 22, 1974, Pub. L. 93-319, § 5, 88 Stat. 258, related to establishment of motor vehicle emission and fuel standards, was transferred to section 7521 of this title.

Section 1857f-2, act July 14, 1955, ch. 360, title II, § 203, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 993, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, §§ 7(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1693, 1705, 1713, which related to prohibited acts with regard to motor vehicle emissions, was transferred to section 7522 of this title.

Section 1857f-3, act July 14, 1955, ch. 360, title II, § 204, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(b), 84 Stat. 1694, which related to subpenas and to jurisdiction of district courts to restrain violations, was transferred to section 7523 of this title.

Section 1857f-4, act July 14, 1955, ch. 360, title II, § 205, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(c), 84 Stat. 1694, which related to penalties for violations, was transferred to section 7524 of this title.

Section 1857f-5, act July 14, 1955, ch. 360, title II, § 206, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1694, which related to motor vehicle and motor vehicle engine compliance testing and certification, was transferred to section 7525 of this title.

Section 1857f-5a, act July 14, 1955, ch. 360, title II, § 207, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1696, which related to compliance by vehicles and engines in actual use, was transferred to section 7541 of this title.

Section 1857f-6, act July 14, 1955, ch. 360, title II, § 208, formerly § 207, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1700, 1705, 1713, which related to reports, records, and information required, access to and copying records, availability of records to the public, and disclosure of trade secrets, was transferred to section 7542 of this title.

Section 1857f-6a, act July 14, 1955, ch. 360, title II, § 209, formerly § 208, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1705, 1713, which related to State standards regarding control of emissions from new motor vehicles or new motor vehicle engines, was transferred to section 7543 of this title.

Section 1857f-6b, act July 14, 1955, ch. 360, title II, § 210, formerly § 209, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(b), 84 Stat. 1694, 1700, which related to federal assistance in developing and maintaining vehicle emission devices and systems inspection and emission testing and control programs, was transferred to section 7544 of this title.

Section 1857f-6c, act July 14, 1955, ch. 360, title II, § 211, formerly § 210, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 9(a), 84 Stat. 1694, 1698; Nov. 18, 1971, Pub. L. 92-157, title III,

§ 302(d), (e), 85 Stat. 464, which related to regulation of fuels, was transferred to section 7545 of this title.

§§ 1857f-6e to 1857f-7. Transferred

CODIFICATION

Section 1857f-6e, act July 14, 1955, ch. 360, title II, § 212, as added Dec. 31, 1970, Pub. L. 91-604, § 10(c), 84 Stat. 1700, and amended Apr. 9, 1973, Pub. L. 93-15, § 1(b), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(b), 88 Stat. 265, which related to low emission vehicles, was transferred to section 7546 of this title.

Section 1857f-6f, act July 14, 1955, c. 360, title II, § 213, as added June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261; and amended S. Res. 4, Feb. 4, 1977, which related to fuel economy for new vehicles, was transferred to section 7547 of this title.

Section 1857f-7, act July 14, 1955, ch. 360, title II, § 214, formerly § 208, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, renumbered § 212 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, renumbered § 213 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(d), 11(a)(2)(A), 84 Stat. 1694, 1703, 1705, renumbered § 214, June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261, which related to definitions concerning motor vehicle emission and fuel standards, was transferred to section 7550 of this title.

§§ 1857f-9 to 1858a. Transferred

CODIFICATION

Section 1857f-9, act July 14, 1955, ch. 360, title II, § 231, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1703, which related to the establishment of aircraft emission standards, was transferred to section 7571 of this title.

Section 1857f-10, act July 14, 1955, ch. 360, title II, § 232, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1704, which related to enforcement of aircraft emission standards, was transferred to section 7572 of this title.

Section 1858f-11, act July 14, 1955, ch. 360, title II, § 233, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1704, which related to state standards and controls regarding aircraft emissions, was transferred to section 7573 of this title.

Section 1857f-12, act July 14, 1955, ch. 360, title II, § 234, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1705, related to definitions concerning aircraft emissions standards, was transferred to section 7574 of this title.

Section 1857g, act July 14, 1955, ch. 360, title III, § 301, formerly § 8, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91-604, §§ 3(b)(2), 15(c)(2), 84 Stat. 1677, 1713, which related to administration of air pollution control, was transferred to section 7601 of this title.

Section 1857h, act July 14, 1955, ch. 360, title III, § 302, formerly § 9, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91-604, § 15(a)(1), (c)(1), 84 Stat. 1710, 1713, which related to definitions concerning air pollution control, was transferred to section 7602 of this title.

Section 1857h-1, act July 14, 1955, ch. 360, title III, § 303, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to emergency powers of the Administrator, was transferred to section 7603 of this title.

Section 1857h-2, act July 14, 1955, ch. 360, title III, § 304, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1706, which related to citizen suits, was transferred to section 7604 of this title.

Section 1857h-3, act July 14, 1955, ch. 360, title III, § 305, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707, which related to legal representation of the Administrator and appearance by the Attorney General, was transferred to section 7605 of this title.

Section 1857h-4, act July 14, 1955, ch. 360, title III, § 306, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707, which related to federal procurement, was transferred to section 7606 of this title.

Section 1857h-5, act July 14, 1955, ch. 360, title III, § 307, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(a), 85 Stat. 464; June 22, 1974, Pub. L. 93-319, § 6(c), 88 Stat. 259, which related to administrative proceedings and judicial review, was transferred to section 7607 of this title.

Section 1857h-6, act July 4, 1955, ch. 360, title III, § 308, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1708, which related to mandatory licensing, was transferred to section 7608 of this title.

Section 1857h-7, act July 14, 1955, ch. 360, title III, § 309, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1709, which related to policy review, was transferred to section 7609 of this title.

Section 1857i, act July 14, 1955, ch. 360, title III, § 310, formerly § 10, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 303, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, renumbered § 310 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to application to other laws and nonduplication of appropriations, was transferred to section 7610 of this title.

Section 1857j, act July 14, 1955, ch. 360, title III, § 311, formerly § 11, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 304, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, renumbered § 311 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to records and audits, was transferred to section 7611 of this title.

Section 1857j-1, act July 14, 1955, ch. 360, title III, § 312, formerly § 305, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to cost studies, was transferred to section 7612 of this title.

Section 1857j-2, act July 14, 1955, ch. 360, title III, § 313, formerly § 306, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to additional reports to Congress, was transferred to section 7613 of this title.

Section 1857j-3, act July 14, 1955, ch. 360, title III, § 314, formerly § 307, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to labor standards, was transferred to section 7614 of this title.

Section 1857k, act July 14, 1955, ch. 360, title III, § 315, formerly § 12, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 305, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, amended and renumbered § 308, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506; renumbered § 315, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to separability of provisions, was transferred to section 7615 of this title.

§ 1857l. Repealed. Pub. L. 95-95, title III, § 306, Aug. 7, 1977, 91 Stat. 777

Section, act July 14, 1955, ch. 360, title III, § 316, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 306 and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 2(a), 80 Stat. 954, renumbered § 309, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, and renumbered § 316 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 13(b),

84 Stat. 1705, 1709; Apr. 9, 1973, Pub. L. 93-15, § 1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(c), 88 Stat. 265, authorized appropriations for air pollution control. Similar subject matter is now covered by section 7626 of this title.

§§ 1858, 1858a. Transferred

CODIFICATION

Section 1858, act July 14, 1955, ch. 360, title IV, § 402, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709, which established the Office of Noise Abatement and Control and authorized investigation of noise and its effects on public health and welfare and a report to Congress on the results of this investigation, was transferred to section 7641 of this title.

Section 1858a, act July 14, 1955, ch. 360, title IV, § 403, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1710, which authorized appropriations concerning noise pollution, was transferred to section 7642 of this title.

CHAPTER 16—NATIONAL SCIENCE FOUNDATION

Sec.
1869b. Issuance of instructions to grantees of precollege curriculum projects [New].
1873a. Financial or other interest of employees processing applications or proposals for Foundation grant or contract [New].
(a) Written statement; availability to public; penalty.
(b) Promulgation of standards.
(c) Annual report to Congress.
(d) Effect of Executive Order requiring disclosure.
1884. Resource Center for Science and Engineering [New].

§ 1861. Establishment; composition

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-99, § 1, Aug. 15, 1977, 91 Stat. 831, provided: "That this Act [which enacted sections 1869b, 1873a, and 1884 of this title, amended sections 1862, 1863, 1873, and 1882 of this title, and enacted provisions set out as a note under section 1862 of this title] may be cited as the 'National Science Foundation Authorization Act, Fiscal Year 1978'."

§ 1862. Functions

[*See main edition for text of* (*a*) *to* (*d*)]

(e) Balancing of research and educational activities in the sciences

In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

[*See main edition for text of* (*f*)]

(As amended Aug. 15, 1977, Pub. L. 95-99, § 14(a), 91 Stat. 835.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-99 substituted "an objective" for "one of the objectives".

AUTHORIZED USE OF FUNDS UNDER SCIENCE AND SOCIETY PROGRAM

Section 5 of Pub. L. 95-99 provided that:

"(a) From the funds authorized under the program 'Science and Society', the National Science Foundation is authorized to provide support which is designed to—

"(1) improve public understanding of public policy issues involving science and technology;

"(2) facilitate the participation of qualified scientists and engineers and of undergraduate and graduate students in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects; and

"(3) assist nonprofit, citizens, and bona fide public interest groups to acquire necessary scientific and technical expertise in order to improve their comprehension of scientific and technical aspects of public policy issues.

"(b) Awards made pursuant to this section shall, to the extent feasible, include support for—

"(1) qualified scientists and engineers to work on public policy issues with significant scientific and technical components in conjunction with units of State and local government, nonprofit organizations, or bona fide public interest groups;

"(2) internship programs for science and engineering undergraduate or graduate students to work on public policy issues with significant scientific and technical components in conjunction with units of State and local government, nonprofit organizations, or bona fide public interest groups as part of their academic training;

"(3) forums, conferences, and workshops on public policy issues with significant scientific and technical components;

"(4) training in the presentation of scientific and technical studies in a manner which (A) improves public understanding of the ways in which science and technology influence contemporary life, (B) improves public access to the results of scientific and technical research, (C) encourages and facilitates interaction between laypersons and scientists on public issues with important scientific and technological components, and (D) increases public knowledge and understanding of the ethical and value implications of scientific and technological developments;

"(5) new and existing programs using radio or television to increase public understanding of public policy issues with significant scientific and technical components; and

"(6) bona fide public interest groups to acquire necessary scientific and technical expertise relating to the scientific and technical aspects of public policy issues and to enable such groups to bring together in appropriate forums experts whose research has been directed to the resolution of such issues."

§ 1863. National Science Board

[*See main edition for text of* (*a*) *to* (*i*)]

(j) Annual report to President; submittal to Congress

The Board shall render an annual report to the President, for submission to the Congress on or before March 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Foundation or with which the Board in its official role as the policymaking body of the Foundation is concerned.

(As amended Aug. 15, 1977, Pub. L. 95-99, § 14(b), 91 Stat. 835.)

AMENDMENTS

1977—Subsec. (j). Pub. L. 95-99 added subsec. (j).

§ 1869b. Issuance of instructions to grantees of pre-college curriculum projects

The National Science Foundation is directed to issue instructions to grantees for pre-college curriculum projects covering the protection of pre-college students and procedures for involving such students in pre-college education research and development, pilot-testing, evaluation, and revision of experimental and innovative pre-college curriculum projects funded by the Foundation. These instructions shall require such grantees to obtain written approval of the school board or comparable authority responsible for the schools prior to the involvement of such students.

(Pub. L. 95-99, § 9, Aug. 15, 1977, 91 Stat. 833.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

§ 1873. Employment of personnel

[*See main edition for text of (a) to (c)*]

(d) Compensation of members of Board and special commission

The members of the Board and the members of each special commission shall receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the rate specified for the daily rate for GS-18 of the General Schedule under section 5332 of title 5 and shall be allowed travel expenses as authorized by section 5703 of title 5.

[*See main edition for text of (e) to (i)*]

(As amended Aug. 15, 1977, Pub. L. 95-99, § 14(c), 91 Stat. 835.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-99 substituted provisions authorizing compensation at a daily rate fixed by the chairman but not exceeding the rate specified for the daily rate for GS-18 of the General Schedule under section 5332 of title 5 for provisions authorizing a daily rate of $100.

§ 1873a. Financial or other interest of employees processing applications or proposals for Foundation grant or contract

(a) Written statement; availability to public; penalty

(1) Each officer or employee of the National Science Foundation who performs a decision-making function in the handling of any application or proposal for a grant from or contract with the Foundation shall provide a written statement for the record identifying (in accordance with the standards promulgated under subsection (b)) of this section any financial interest or other relevant interest he or she has in the person submitting the application or proposal and any academic affiliation he or she has with that person. If the application or proposal results in an award, the statement shall be made available to the public.

(2) The Director shall remove or take other appropriate disciplinary action against any employee who knowingly violates the requirements of this subsection.

(b) Promulgation of standards

(1) Within 60 days after August 15, 1977, the Director of the National Science Foundation shall publish—

(A) proposed standards to implement the requirements of subsection (a) of this section, designed to minimize conflicts of interest and to assure that the appropriate files of the Foundation relating to any grant or contract referred to in such subsection contain a statement of any financial or other relevant interest which any of the officers and employees involved may have in the person or institution applying for or proposing the grant or contract as well as any academic affiliation which any of such officers and employees may have with such person or institution; and

(B) proposed standards appropriately requiring identification of any conflicts of interest by peer reviewers.

(2) Within 120 days after August 15, 1977, the Director shall promulgate the standards published under paragraph (1), with such modifications as the Director may deem appropriate; and such standards shall take effect upon their promulgation.

(c) Annual report to Congress

The Director shall report annually to the Congress on the administration and enforcement of this section.

(d) Effect of Executive Order requiring disclosure

If the President issues an Executive order that requires financial disclosure by officers and employees of Federal agencies generally, only so much of this section as relates to peer reviewers and to academic affiliations of officers and employees shall remain effective.

(Pub. L. 95-99, § 10, Aug. 15, 1977, 91 Stat. 834.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

§ 1874. Security provisions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 1882. Information furnished to congressional committees

Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee

on Science and Technology of the House of Representatives and the Committee on Human Resources of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

(Pub. L. 95-99, § 13, Aug. 15, 1977, 91 Stat. 835.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-99, Aug. 15, 1977, 91 Stat. 831, known as the National Science Foundation Authorization Act, Fiscal Year 1978, which enacted sections 1869b, 1973a, and 1884 of this title, amended sections 1862, 1863, 1873, and 1882 of this title, and enacted provisions set out as notes under sections 1861 and 1862 of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act, Fiscal Year 1978, and not as part of the National Science Foundation Act of 1950, which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following National Science Foundation Authorization Act:
Pub. L. 94-471, § 11, Oct. 11, 1976, 90 Stat. 2058.

§ 1884. Resource Center for Science and Engineering

(a) The National Science Foundation shall establish a Resource Center for Science and Engineering to be located at an educational institution which—

(1) enrolls substantial numbers of minority students, students from low-income families, or both;

(2) is geographically located near one or more population centers of low-income families or minority groups;

(3) demonstrates a commitment to encouraging and assisting minority students or students from low-income families, or both; and

(4) has an existing or developing capacity to offer doctoral programs in science and engineering.

(b) The Center established under this section shall—

(1) support basic research and the acquisition of necessary research facilities and equipment;

(2) serve as a regional resource in science and engineering for the community which the Center serves; and

(3) develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families.

(Pub. L. 95-99, § 6, Aug. 15, 1977, 91 Stat. 833.)

CODIFICATION

Section was not enacted as part of act May 10, 1950, ch. 171, 64 Stat. 149, known as the National Science Foundation Act of 1950, which comprises this chapter.

CHAPTER 19—SALINE AND SALT WATERS

SUBCHAPTER III—SALINE WATER CONVERSION PROGRAM

Sec.
1959i. Desalting plants [New].
(a) Study, design, construction, etc., of plants demonstrating viability of membrane and phase-change desalting processes.
(b) Fund expenditure following transmittal of report to congressional committees; contents of report; proposed contract.
(c) Authorization of appropriations.

SUBCHAPTER III—SALINE WATER CONVERSION PROGRAM

§ 1959d. Saline water conversion program and other Federal programs

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 1959h. Authorization of appropriations

[*See main edition for text of* (a)]

(b) Annual appropriation authorization; availability of moneys for execution of provisions, for grants, contracts, cooperative agreements, and studies, and for correlation of results of studies and research

There are authorized to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization Acts to carry out the provisions of this subchapter during the fiscal years 1973 to 1978, inclusive, and to finance, for not more than three years beyond the end of said period, such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this subchapter and such activities as are required to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this subchapter.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-84, § 1(a)(2), Aug. 2, 1977, 91 Stat. 400.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-84 substituted "1973 to 1978, inclusive," for "1973 to 1977, inclusive,".

ANNUAL AUTHORIZATION OF APPROPRIATIONS

Annual authorization for appropriations for the saline water conversion programs for fiscal years authorized by subsec. (b) of this section were contained in the following appropriations Acts:
Pub. L. 95-84, § 1(b), Aug. 2, 1977, 91 Stat. 400.
Pub. L. 94-316, § 1, June 22, 1976, 90 Stat. 694.
Pub. L. 94-38, June 19, 1975, 89 Stat. 217.

Pub. L. 93-342, July 10, 1974, 88 Stat. 295.
Pub. L. 92-51, July 1, 1973, 87 Stat. 129.
Pub. L. 92-273, Apr. 17, 1972, 86 Stat. 122.

§ 1959i. Desalting plants

(a) Study, design, construction, etc., of plants demonstrating viability of membrane and phase-change desalting processes

The Secretary of the Interior is authorized and directed to study, design, construct, operate, and maintain desalting plants demonstrating the engineering and economic viability of membrane and phase-change desalting processes at not more than four locations in the United States, including Puerto Rico, Virgin Islands, and Guam: *Provided,* That at least two such plants shall demonstrate desalting of brackish ground water.

(b) Fund expenditure following transmittal of report to congressional committees; contents of report; proposed contract

Funds appropriated pursuant to the authority provided by this section may not be expended until thirty calendar days (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) have elapsed following transmittal of a report to the chairman of the Committee on Interior and Insular Affairs of the House of Representatives and the chairman of the Committee on Environment and Public Works of the United States Senate. Such report shall present information that includes, but is not limited to, the location of the demonstration plant, the characteristics of the water proposed to be desalted, the process to be utilized, the water supply problems confronting the area in which the plant will be located, alternative sources of water and their probable cost, the capacity of the plant, the initial investment cost of the demonstration plant, the annual operating cost of the demonstration plant, the source of energy for the plant and its cost, the means of reject brine disposal and its environmental consequences, and the unit cost of product water, considering the amortization of all components of the demonstration plant and ancillary facilities. Such report shall also be accompanied by a proposed contract between the Secretary and a duly authorized non-Federal public entity, in which such entity shall agree to furnish, at no cost to the United States, necessary water rights, water supplies, rights-of-way, power source interconnections, and brine disposal facilities. Such proposed contract will further provide that the United States will construct the plant described in the report at no cost to the non-Federal public entity and that the United States will provide all costs of operation and maintenance of the plant for a term of at least two but not more than five years, during which access to the plant and its operating data will not be denied to the Secretary or his representatives. The Secretary is authorized to include in the proposed contract a provision for conveying all rights, title, and interest of the Federal Government to the non-Federal public entity, subject only to a future right to re-enter the facility for the purpose of financing at Federal expense modifications for advanced technology and for its operation and maintenance for a successive term under the same conditions as pertain to the original term.

(c) Authorization of appropriations

There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter the sum of $40,000,000 to finance the construction of demonstration plants authorized by this section. There are also authorized to be appropriated such additional sums as are necessary to defray operation, maintenance, and energy costs for demonstration plants during the periods of Federal responsibility for such activities, under this section.

(Pub. L. 95-84, § 2, Aug. 2, 1977, 91 Stat. 400.)

CODIFICATION

This section was not enacted as a part of the Saline Water Conversion Act of 1971, which comprises this chapter.

CHAPTER 19A—WATER RESOURCES RESEARCH PROGRAM

§ 1961b. Research into water problems related to the mission of the Department of the Interior

(a) Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Interior $5,000,000 for the fiscal year 1967, $6,000,000 for the fiscal year 1968, $7,000,000 for the fiscal year 1969, $8,000,000 for the fiscal year 1970, $9,000,000, for the fiscal year 1971, and $10,000,000 for each of the fiscal years 1972-1976, and for 1978, inclusive, from which appropriations the Secretary may make grants to and finance contracts and matching or other arrangements with educational institutions, private foundations or other institutions, with private firms and individuals whose training, experience, and qualifications are, in his judgment, adequate for the conduct of water research projects, and with local, State, and Federal Government agencies, to undertake research into any aspects of water problems related to the mission of the Department of the Interior which he may deem desirable and which are not otherwise being studied.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-84, § 1(a)(1), Aug. 2, 1977, 91 Stat. 400.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-84 inserted "and for 1978," following "for each of the fiscal years 1972 to 1976,".

CHAPTER 19B—WATER RESOURCES PLANNING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1959a, 1962d-4 of this title; title 16 section 1275; title 33 sections 1252, 1289; title 43 section 1511.

SUBCHAPTER I—WATER RESOURCES COUNCIL

§ 1962a. Establishment; composition; other Federal agency participation; designation of Chairman

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 1962d. Authorization of appropriations to the Water Resources Council

There are authorized to be appropriated to the Water Resources Council:

(a) Limitation for single river basin commission

not to exceed $6,000,000 for fiscal year 1978 for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairmen, but not including funds authorized by subsection (c) below: *Provided,* That not more than $750,000 annually shall be available under this subsection for any single river basin commission;

(b) Limitation on the expenses of the Water Resources Council

not to exceed $2,000,000 for fiscal year 1978 for the expenses of the Water Resources Council in administering this chapter, not including funds authorized by subsection (c) below;

(c) Limitations on the availability of funds for the preparation of assessments and plans

not to exceed the sum of $3,905,000 for fiscal year 1978 for preparation of assessments, and for directing and coordinating the preparation of such regional or river basin plans as the Council determines are necessary and desirable in carrying out the policy of this chapter: *Provided,* That not more than $2,500,000 shall be available under this subsection for the preparation of assessments: *Provided further,* That the Council may transfer funds authorized by this subsection to river basin commissions and to Federal and State agencies upon such terms and conditions as it determines are necessary and desirable to carry out the above functions in an economical, efficient, and timely manner, and that such commissions and agencies are hereby authorized to receive and expend such funds pursuant to this subsection.

(As amended Pub. L. 95-41, § 1, June 6, 1977, 91 Stat. 209.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-41, § 1(b), substituted "for fiscal year 1978" for "annually".

Subsec. (b). Pub. L. 95-41, § 1(c), substituted "for fiscal year 1978" for "annually".

Subsec. (c). Pub. L. 95-41, § 1(a), substituted "not to exceed the sum of $3,905,000 for fiscal year 1978" for "not to exceed a total of $10,000,000 for fiscal years 1976 and 1977".

§ 1962d-17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation

RATES USED TO ASSESS RETURN ON FEDERAL GOVERNMENT'S INVESTMENT IN PROJECTS OF ARMY CORPS OF ENGINEERS AND BUREAU OF RECLAMATION

Pub. L. 95-28, title II, § 204, May 13, 1977, 91 Stat. 121, provided that: "It is hereby reiterated that the interest rates or rates of discount to be used to assess the return on the Federal Government's investment in projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation, shall be those interest rates or rates of discount established by Public Law 93-251, the Water Resources Development Act of 1974 [see Short Title of 1974 Amendment note set out under section 1962 of this title] or by any prior law authorizing projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation."

CHAPTER 20A—CIVIL RIGHTS COMMISSION

§ 1975. Commission on Civil Rights

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-132, § 1, Oct. 13, 1977, 91 Stat. 1157, provided: "That this Act [which amended section 1975e of this title] may be cited as the 'Civil Rights Commission Authorization Act of 1977'."

§ 1975e. Authorization of appropriations

For the purposes of carrying out this chapter, there is hereby authorized to be appropriated for the fiscal year ending September 30, 1978, the sum of $10,480,000 and such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law which arise subsequent to October 13, 1977.

(As amended Pub. L. 95-132, § 2, Oct. 13, 1977, 91 Stat. 1157.)

AMENDMENTS

1977—Pub. L. 95-132 substituted provisions authorizing to be appropriated for the fiscal year ending Sept. 30, 1978, the sum of $10,480,000 and such additional amounts as may be necessary for increases in salary, etc., arising after Oct. 13, 1977, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1976, the sum of $7,893,000, and for the period beginning July 1, 1976, and ending Sept. 30, 1976, the sum of $1,993,000, and for the fiscal year ending Sept. 30, 1977, the sum of $9,540,000, and such additional amounts for those fiscal years and period prior to Oct. 1, 1977, as may be necessary for increases in salary, etc., arising after May 27, 1976.

CHAPTER 21—CIVIL RIGHTS

SUBCHAPTER I—GENERALLY

§ 1983. Civil action for deprivation of rights

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1988 of this title.

§ 1985. Conspiracy to interfere with civil rights

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1986, 1988 of this title; title 28 section 1343.

SUBCHAPTER II—PUBLIC ACCOMMODATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2000h of this title.

§ 2000a. Prohibition against discrimination or segregation in places of public accommodation

ACT REFERRED TO IN OTHER SECTIONS

The Civil Rights Act of 1964 [subchapters II to IX of this chapter] is referred to in sections 5304, 6727 of this title; title 20 sections 1221, 1221e-1; title 31 section 1242.

SUBCHAPTER III—PUBLIC FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2000h of this title.

SUBCHAPTER IV—PUBLIC EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2000h of this title; title 20 sections 1656, 1720.

SUBCHAPTER V—FEDERALLY ASSISTED PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1988, 2000d-6, 2000h, 5309, 5891, 6709, 6870 of this title; title 15 sections 719o, 775; title 20 sections 1231e, 1232i, 1602, 1605, 1617, 1717; title 23 sections 117, 324; title 29 section 991; title 40 section 476; title 45 section 803; title 49 sections 1604, 1608, 1716, 1730.

§ 2000d-2. Judicial review; administrative procedure provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2930c, 2971c, 2985g, 5057 of this title; title 29 section 991; title 39 section 410.

SUBCHAPTER VI—EQUAL EMPLOYMENT OPPORTUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2000h, 5841 of this title; title 5 section 5108.

§ 2000e. Definitions

EX. ORD. NO. 11126. INTERDEPARTMENTAL COMMITTEE ON THE STATUS OF WOMEN; CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

Ex. Ord. No. 11126, Nov. 1, 1963, 28 F.R. 11717, as amended by Ex. Ord. No. 11221, May 6, 1965, 30 F.R. 6427; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

* * * * *

PART I—INTERDEPARTMENTAL COMMITTEE ON THE STATUS OF WOMEN

* * * * *

SEC. 102. The Committee shall—

* * * * *

(5) [Revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

SEC. 103. Annually the Committee shall transmit a report to the President concerning the status of women.

PART II—CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

[Revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

PART III—FINANCING AND ADMINISTRATION

SEC. 301. The departments the heads of which are, under Section 101(a) of this order, members of the Committee and the Civil Service Commission shall, as may be necessary, furnish assistance to the Committee in accordance with Section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691). To the extent practical and to the extent permitted by law (1) all Executive agencies shall cooperate with the Committee and furnish it such information and assistance as may be necessary for the performance of its functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies, and other necessary assistance, facilities, and services for the Committee.

JOHN F. KENNEDY.

§ 2000e-5. Enforcement provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2000e-4, 2000e-6, 2000e-8, 2000e-16 of this title.

SUBCHAPTER VII—REGISTRATION AND VOTING STATISTICS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2000h of this title.

CHAPTER 23—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

SUBCHAPTER II—ORGANIZATION

Sec.
2040. Fellowship program of Advisory Committee on Reactor Safety; selection of fellows [new].

SUBCHAPTER XVI—JOINT COMMITTEE ON ATOMIC ENERGY

2258. Joint Committee on Atomic Energy abolished [new].
2259. Information and assistance to Congressional Committees [new].
(a) Secretary of Energy and Nuclear Regulatory Commission.
(b) Department of Defense and Department of State.
(c) Governmental agencies.
(d) Utilization of services, facilities, and personnel of governmental agencies; reimbursement; prior written consent.

SUBCHAPTER I—GENERAL PROVISIONS

§ 2014. Definitions

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (o), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission by section 5841 of this title, except that the determinations and criteria in subsec. (j) were to be the responsibility of the Administrator, Energy Research and Development Administration, only in regard to activities and matters not covered by the licensing and related regulatory facets of section 2210 of this title, and the determinations in subsecs. (v), (z), (aa), and (cc), were to be the responsibility of the Administrator only in regard to facilities and materials not subject to licensing and related regulatory control by the Nuclear Regulatory Commission. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2015 to 2017

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2018. Agency jurisdiction

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2019, 2020

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER II—ORGANIZATION

§§ 2033, 2034

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration, with certain exceptions, by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2035. Divisions, offices, and positions

TRANSFER OF FUNCTIONS

* * * * *

The Division of Naval Reactors and the Division of Military Applications, both established under this section, were transferred to the Department of Energy by section 7158 of this title, with such organizational units to be deemed organizational units established by chapter 84, section 7101 et seq. of this title. The Energy Research and Development Administration was terminated by section 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5814, 7158 of this title.

§ 2036. Repealed. Pub. L. 95-91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608

Section, act Aug. 1, 1946, ch. 724, § 26, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926, established a General Advisory Committee to advise the Atomic Energy Commission on scientific and technical matters relating to materials, production, and research and development.

§ 2037. Military Liaison Committee; composition; duties; authority of Defense Department

TRANSFER OF FUNCTIONS

* * * * *

The functions of the Energy Research and Development Administration with respect to the Military Liaison Committee established by this section were transferred to the Department of Energy by section 7158 of this title, with that organizational unit deemed to be an organizational unit established by chapter 84, section 7101 et seq. of this title. The Energy Research and Development Administration was terminated by section 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5814, 7158 of this title.

§ 2038. Appointment of Army, Navy, or Air Force officer as Assistant General Manager for Military Application; Chairman of Military Liaison Committee; compensation

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to

the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2039. Advisory Committee on Reactor Safeguards; composition; tenure; duties; compensation; reactor safety research study; annual report to Congress

There is established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of section 2203 of this title shall be applicable to the Committee. In addition to its other duties under this section, the committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit annually to the Congress a report containing the results of such study. The first such report shall be submitted to the Congress not later than December 31, 1977.

(As amended Dec. 13, 1977, Pub. L. 95-209, § 5, 91 Stat. 1483.)

Amendments

1977—Pub. L. 95-209 added provisions which called for a study of reactor safety research and an annual report on the results of the study.

Transfer of Functions

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2040. Fellowship program of Advisory Committee on Reactor Safety; selection of fellowship

To assist the Advisory Committee on Reactor Safeguards in carrying out its function, the committee shall establish a fellowship program under which persons having appropriate engineering or scientific expertise are assigned particular tasks relating to the functions of the committee. Such fellowship shall be for 2-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the committee.

(Pub. L. 95-209, § 6, Dec. 13, 1977, 91 Stat. 1483.)

Codification

Section was not enacted as part of the Atomic Energy Act of 1954, which comprises this chapter.

SUBCHAPTER III—RESEARCH

§ 2051. Research and Development Assistance

Transfer of Functions

The Atomic Energy Commission was abolished and all functions under subsec. (b) of this section were transferred to the Administrator of the Energy Research and Development Administration, and the functions under subsecs. (a), (c), and (d) of this section were transferred jointly to the Nuclear Regulatory Commission and the Administrator by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2052. Research by the Commission

Transfer of Functions

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2053. Research for others; charges

Transfer of Functions

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title, with the exception that the Nuclear Regulatory Commission retains authority to contract out for research as it deems necessary to exercise its licensing and regulatory functions. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER V—SPECIAL NUCLEAR MATERIAL

§ 2071. Determination of other material as special nuclear material; Presidential assent; effective date

Transfer of Functions

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in text, was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

§ 2073. Domestic distribution of special nuclear material

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator, Energy Research and Development Administration by sections 5814 and 5841 of this title, with the exception that functions under subsec. (a)(ii), (iii) of this section apply only to the Administrator, and the functions under subsec. (l) of this section apply only to the Nuclear Regulatory Commission. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2074. Foreign distribution of special nuclear material

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (a), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

§ 2075. Acquisition of special nuclear material; payments; just compensation

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2076. Guaranteed purchase prices

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2077. Unauthorized dealings in special nuclear material

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2078. Congressional review of guaranteed purchase price, guaranteed purchase price period, and criteria for waiver of charges

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in text, was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

SUBCHAPTER VI—SOURCE MATERIAL

§ 2091. Determination of source material

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in text, was abolished by section 2258 of this title and

references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

§ 2093. Domestic distribution of source material

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section relating to distribution of source material were transferred to the Administrator of the Energy Research and Development Administration and the functions relating to licensing transferred to the Nuclear Regulatory Commission by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2094. Foreign distribution of source material

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2095, 2096

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2097. Operations on lands belonging to the United States

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2098. Public and acquired lands

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER VII—BYPRODUCT MATERIALS

§§ 2111, 2112

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections relating to distribution of byproduct material were transferred to the Administrator, Energy Research and Development Administration and the functions relating to licensing transferred to the Nuclear Regulatory Commission by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER VIII—MILITARY APPLICATION OF ATOMIC ENERGY

§ 2121. Authority of Commission

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER IX—ATOMIC ENERGY LICENSES

§ 2135. Antitrust provisions governing licenses

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under subsec. (c) of this section were transferred to and vested exclusively in the Nuclear Regulatory Commission, and similar functions under subsecs. (a) and (b) of this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2138. Suspension of licenses during war or national emergency

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2140. Exclusions from license requirement

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER X—INTERNATIONAL ACTIVITIES

§§ 2151, 2152

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Administrator of the Energy Research and Development Administration, except for any licensing or regulatory functions of the Commission, which were transferred to the Nuclear Regulatory Commission, by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2153. Cooperation with other nations

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Administrator of the Energy Research and Development Administration, except for any licensing or regulatory functions of the Commission, which were transferred to the Nuclear Regulatory Commission, by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsecs. (c) and (d), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

SUBCHAPTER XI—CONTROL OF INFORMATION

§ 2161. Policy of Commission

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred jointly to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration, except for functions under subsec. (a) of this section, which were transferred to and vested exclusively in the Administrator, by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2162, 2163

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2164. International cooperation

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under subsecs. (a) to (c) of this section were transferred to and vested exclusively in the Administrator of the Energy Research and Development Administration, and similar functions under subsec. (d) of this section were transferred jointly to the Administrator and the Nuclear Regulatory Commission, by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2165. Security restrictions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which provided that only the Administrator was to establish the basic standards and procedures for the safeguarding of the national defense and security. See sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2166. Applicability of other laws

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER XII—PATENTS AND INVENTIONS

§ 2181. Inventions relating to atomic weapons, and filing of reports

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under subsecs. (a) and (b) of this section were transferred to and vested exclusively in the Ad-

ministrator of the Energy Research and Development Administration, and similar functions under subsecs. (c) to (e) of this section were transferred jointly to the Administrator and the Nuclear Regulatory Commission, by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2182. Inventions conceived during Commission contracts; ownership; waiver; hearings

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2183. Nonmilitary utilization

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2186. Commission patent licenses

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2187. Compensation, awards, and royalties

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Administrator of the Energy Research and Development Administration, and the Patent Compensation Board, established by this section, was transferred to the Energy Research and Development Administration, by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2188, 2189

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER XIII—GENERAL AUTHORITY OF COMMISSION

§ 2201. General duties of Commission

TRANSFER OF FUNCTIONS

* * * * *

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (v), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

ORGANIZATIONAL CONFLICTS OF INTEREST

Pub. L. 95-209, § 7, Dec. 13, 1977, 91 Stat. 1483, provided that: "The Commission shall by December 31, 1977, promulgate guidelines to be applied by the Commission in determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor's judgment or otherwise give the contractor an unfair competitive advantage."

APPLICABILITY TO FUNCTIONS TRANSFERRED BY DEPARTMENT OF ENERGY ORGANIZATION ACT

Pub. L. 95-91, title VII, § 709(c)(2), Aug. 4, 1977, 91 Stat. 608, provided that: "Section 161(d) of the Atomic Energy Act of 1954 [subsec. (d) of this section] shall not apply to functions transferred by this Act [See Short Title note set out under section 7101 of this title]."

§ 2202. Contracts

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2203. Advisory committees

REFERENCES IN TEXT

Section 2036 of this title, referred to in text, was repealed by Pub. L. 95-91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608.

TRANSFER OF FUNCTIONS

All the powers, duties, and functions of the General Advisory Committee, referred to in text, which was established to advise the Atomic Energy Commission on

scientific and technical matters relating to materials, production, and research and development, were transferred to the Energy Research and Development Administration by section 5814(d) of this title, prior to the abolition of the General Advisory Committee by Pub. L. 95-91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608.

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2204. Electric utility contracts; authority to enter into; cancellation; submission to Joint Committee

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in text, was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2204a. Fission product contracts

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (c), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2205, 2206

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2207. Claim settlements; reports to Congress

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2208, 2209

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2210. Indemnification and limitation of liability

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsecs. (i) and (o)(4), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

SUBCHAPTER XIV—COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

§ 2221. Just compensation for requisitioned property

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2223. Patent application disclosures

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER XV—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

§ 2231. Applicability of administrative procedure provisions; definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2236. Revocation of licenses

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under subsecs. (a) and (b) of this section were transferred to and vested exclusively in the Nuclear Regulatory Commission by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. Similar functions under subsec. (c) were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration, provided that the Administrator was to establish the basic standards and procedures with regard to national defense and security. See sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2238. Continued operation of facilities

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to and vested jointly in the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which provided that the findings and judgments respecting the production program under this section were to be the responsibility of the Administrator. See sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2239. Hearings and judicial review

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER XVI—JOINT COMMITTEE ON ATOMIC ENERGY

§§ 2251 to 2257. Repealed. Aug. 1, 1946, ch. 724, § 302(a), as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884

Section 2251, act Aug. 1, 1946, ch. 724, § 201, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, provided for the establishment of the Joint Committee on Atomic Energy.

Section 2252, act Aug. 1, 1946, ch. 724, § 202, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, and amended Sept. 6, 1961, Pub. L. 87-206, § 17, 75 Stat. 479; Mar. 26, 1964, Pub. L. 88-294, 78 Stat. 172; Dec. 6, 1974, Pub. L. 93-514, 88 Stat. 1611, set out the authority and duties of the Joint Committee.

Section 2253, act Aug. 1, 1946, ch. 724, § 203, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, provided for a Chairman and a Vice Chairman of the Committee.

Section 2254, act Aug. 1, 1946, ch. 724, § 204, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, and amended Dec. 27, 1974, Pub. L. 93-554, title I, § 101(2), 88 Stat. 1776, related to the powers of the Committee.

Section 2255, act Aug. 1, 1946, ch. 724, § 205, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, related to staff and assistance for the Committee.

Section 2256, act Aug. 1, 1946, ch. 724, § 206, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, related to the classification of information originating in the Committee.

Section 2257, act Aug. 1, 1946, ch. 724, § 207, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957, required that the Committee keep records of all Committee actions.

EFFECTIVE DATE OF REPEAL

Section 302(a) of act Aug. 1, 1946, ch. 724, as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884, provided in part that the repeal of sections 2251 to 2257 is effective on Sept. 20, 1977.

§ 2258. Joint Committee on Atomic Energy abolished

(a) The Joint Committee on Atomic Energy is abolished.

(b) Any reference in any rule, resolution, or order of the Senate or the House of Representatives or in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after September 20, 1977, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

(c) All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record, data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

(Aug. 1, 1946, ch. 724, § 301, as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884.)

§ 2259. Information and assistance to Congressional Committees

(a) Secretary of Energy and Nuclear Regulatory Commission

The Secretary of Energy and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the functions of the Secretary or the Commission, fully and currently informed with respect to the activities of the Secretary and the Commission.

(b) Department of Defense and Department of State

The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, fully and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

(c) Governmental agencies

Any Government agency shall furnish any information requested by the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

(d) Utilization of services, facilities, and personnel of governmental agencies; reimbursement; prior written consent

The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however,* That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of Representatives, the prior written consent of the Committee on House Administration.

(Aug. 1, 1946, ch. 724, § 303, as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884.)

SUBCHAPTER XVII—ENFORCEMENT OF CHAPTER

§ 2271. General provisions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2277. Disclosure of Restricted data

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 2278a, 2278b

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under these sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2280. Injunction proceedings

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER XVIII—EURATOM COOPERATION

§§ 2291, 2292

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2294. Authorization for sale or lease of uranium and plutonium; amounts; lien for nonpayment; uranium enrichment services

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CHAPTER 24—DISPOSAL OF ATOMIC ENERGY COMMUNITIES

SUBCHAPTER I—GENERAL PROVISIONS

§ 2301. Congressional declaration of policy

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under this section were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2315. Repealed. Aug. 1, 1946, ch. 724, § 302(b), as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884

Section, act Aug. 4, 1955, ch. 543, ch. 10, § 103, 69 Stat. 483, provided that sections 2251 to 2257 of this title be applicable to all matters coming under this chapter.

SUBCHAPTER IV—SALES OF PROPERTY FOR PRIVATE USE

§ 2349. Hanford project; disposal of property

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in text was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

SUBCHAPTER VIII—LOCAL ASSISTANCE

§ 2391. Assistance to governmental entities

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

ABOLITION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

The Joint Committee on Atomic Energy, referred to in subsec. (d), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

§§ 2392 to 2394

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CHAPTER 26—NATIONAL SPACE PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

§ 2455. Security requirements

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 2459. Appropriations

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

Pub. L. 95-76, § 5, July 30, 1977, 91 Stat. 315, provided that: "It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible."

§ 2463. Tracking and data relay satellite services; report to Congressional Committees; authorization to contract

The National Aeronautics and Space Administration is authorized, when so provided in an appropriation Act, to enter into and to maintain a contract for tracking and data relay satellite services. Such services shall be furnished to the National Aeronautics and Space Administration in accordance with applicable authorization and appropriations Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Facilities which may be required in the performance of the contract may be constructed on Government-owned lands if there is included in the contract a provision under which the Government may acquire title to the facilities, under terms and conditions agreed upon in the contract, upon termination of the contract.

The Administrator shall in January of each year report to the Committee on Science and

Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the National Aeronautics and Space Administration to enter into and to maintain the contract authorized hereunder shall remain in effect unless repealed by legislation enacted by the Congress after July 30, 1977.

(Pub. L. 95-76, § 6, July 30, 1977, 91 Stat. 315.)

CODIFICATION

Section was enacted as part of Pub. L. 95-76, known as the National Aeronautics and Space Administration Authorization Act, 1978, and not as part of Pub. L. 85-568, July 29, 1958, 72 Stat. 426, known as the National Aeronautics and Space Act of 1958, which is classified principally to this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior Authorization Act:
Pub. L. 94-307, § 6, June 4, 1976, 90 Stat. 680.

SUBCHAPTER III—UPPER ATMOSPHERE RESEARCH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7454 of this title.

CHAPTER 33—COMMUNITY MENTAL HEALTH CENTERS

§ 2689a. Grants for planning center programs

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Authorization of appropriations

There are authorized to be appropriated for payments under grants under subsection (a) of this section $3,750,000 for the fiscal year 1976, $3,750,000 for the fiscal year ending September 30, 1977, and $1,930,000 for the fiscal year ending on September 30, 1978.

(As amended Pub. L. 95-83, title III, § 308(a), Aug. 1, 1977, 91 Stat. 395.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $1,930,000 for fiscal year ending on Sept. 30, 1978.

§ 2689b. Grants for initial operation of centers and related public or nonprofit private entity

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Authorization of appropriations

(1) There are authorized to be appropriated for payments under initial grants under subsection (a) of this section $50,000,000 for fiscal year 1976, $55,000,000 for the fiscal year ending September 30, 1977, and $38,890,000 for the fiscal year ending September 30, 1978.

(2) For fiscal year 1978, and for each of the succeeding seven fiscal years, there are authorized to be appropriated such sums as may be necessary to make payments under continuation grants under subsection (a) of this section to community mental health centers and other entities which first received an initial grant under this section for fiscal year 1976, or the next two fiscal years and which are eligible for a grant under this section in a fiscal year for which sums are authorized to be appropriated under this paragraph.

(e) Continuation of grants for prior grant recipients; determination of duration, amount, number, etc., of continuation grants; authorization of appropriations

(1) Any entity which has not received a grant under subsection (a) of this section, which received a grant under section 2688, 2688g, 2688h, 2688k, 2688n-1, 2688r, or 2688u of this title (as in effect before July 29, 1975) from appropriations under this subchapter for a fiscal year ending before July 1, 1975, and which would be eligible for another grant under such section from an appropriation for a succeeding fiscal year if such section were not repealed by the Community Mental Health Centers Amendments of 1975 may, in lieu of receiving a grant under subsection (a) of this section, continue to receive a grant under each such repealed section under which it would be so eligible for another grant—

(A) for the number of years and in the amount prescribed for the grant under each such repealed section, except that—

(i) the entity may not receive under this subsection more than three grants under any such repealed section unless it meets the requirements of section 2689 of this title, and

[*See main edition for text of* (*ii*) *and* (*B*)]

In any year in which a grantee under this subsection receives a grant under section 2689c of this title for consultation and education services, the staffing costs of the grantee for that year which are attributable to the provision of such services and the grantee's collections in that year for such services shall be disregarded in applying subparagraph (A) and the provisions of the repealed section applicable to determining the amount of the grant the grantee may receive under this subsection for that year.

[*See main edition for text of* (*2*) *and* (*3*); (*f*)]

(As amended Pub. L. 95-83, title III, § 308(b), (h), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-83, § 308(b)(1), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $38,890,000 for fiscal year ending Sept. 30, 1978.

Subsec. (d)(2). Pub. L. 95-83, § 308(b)(2), substituted "1978" for "1977" and "or the next two fiscal years" for "or the next fiscal year".

Subsec. (e)(1)(A)(i). Pub. L. 95-83, § 308(h), increased to three from two the number of grants authorized to be received under any repealed section.

§ 2689c. Annual grants for consultation and education services of centers and related public or nonprofit private entity

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations

There are authorized to be appropriated for payments under grants under this section $10,000,000 for fiscal year 1976, $15,000,000 for the fiscal year ending September 30, 1977, and $15,000,000 for the fiscal year ending September 30, 1978.

(As amended Pub. L. 95-83, title III, § 308(c), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $15,000,000 for fiscal year ending Sept. 30, 1978.

§ 2689d. Conversion grants for related public or nonprofit entity

[*See main edition for text of* (a) *and* (b)]

(c) Authorization of appropriations

There are authorized to be appropriated for payments under grants under subsection (a) of this section $20,000,000 for fiscal year 1976, $20,000,000 for the fiscal year ending September 30, 1977, and $23,000,000 for the fiscal year ending September 30, 1978.

(As amended Pub. L. 95-83, title III, § 308(d), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $23,000,000 for fiscal year ending Sept. 30, 1978.

§ 2689e. General requirements for grants

[*See main edition for text of* (a) *to* (c)]

(d) Review of and comments on application by State mental health authority; disposition of application; time limitations

An application for a grant under this part which is submitted to the Secretary shall at the same time be submitted to the State mental health authority for the State in which the project or community mental health center for which the application is submitted is located. A State mental health authority which receives such an application under this subsection may review it and submit its comments to the Secretary within the forty-five-day period beginning on the date the application was received by it. The Secretary shall take action to require an applicant to revise his application or to approve or disapprove an application within the period beginning on the date the State mental health authority submits its comments or on the expiration of such forty-five-day period, whichever occurs first, and ending on the one hundred and twentieth day following the date the application was submitted to him.

[*See main edition for text of* (e) *and* (f)]

(As amended Pub. L. 95-83, title III, § 308(i), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 extended time limitation for the end date to be a date ending on the one hundred and twentieth day following date of submission of application for the prior date ending on the ninetieth day following such submission.

§ 2689h. Authorization of appropriations

There are authorized to be appropriated $15,000,000 for fiscal year 1976, $15,000,000 for the fiscal year ending September 30, 1977, and $13,500,000 for the fiscal year ending September 30, 1978, for payments under grants under section 2689f of this title.

(As amended Pub. L. 95-83, title III, § 308(e), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $13,500,000 for fiscal year ending Sept. 30, 1978.

§ 2689p. Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1976, $5,000,000 for fiscal year 1977, and $2,500,000 for the fiscal year ending September 30, 1978, for allotments under section 2689o of this title.

(As amended Pub. L. 95-83, title III, § 308(f), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Pub. L. 95-83 authorized appropriation of $2,500,000 for fiscal year ending Sept. 30, 1978.

§ 2689q. National Center for the Prevention and Control of Rape

[*See main edition for text of* (a) *to* (c)]

(d) Authorization of appropriations

For the purpose of carrying out subsection (b) of this section, there are authorized to be appropriated $7,000,000 for fiscal year 1976, $10,000,000 for the fiscal year ending September 30, 1977, and $7,880,000 for the fiscal year ending September 30, 1978.

(As amended Pub. L. 95-83, title III, § 308(g), Aug. 1, 1977, 91 Stat. 396.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-83 substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $7,880,000 for fiscal year ending Sept. 30, 1978.

CHAPTER 34—ECONOMIC OPPORTUNITY PROGRAM

§ 2701. Congressional findings and declaration of purpose

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-222, § 1, Dec. 28, 1977, 91 Stat. 1619, provided that: "This Act [amending sections 2996, 2996c, and 2996e to 2996j of this title, and enacting provisions set out as notes under sections 2996, 2996f and 2996i of this title] may be cited as the 'Legal Services Corporation Act Amendments of 1977'."

SUBCHAPTER VI—ADMINISTRATION AND COORDINATION

PART A—ADMINISTRATION

§ 2971d. Poverty line

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5061 of this title; title 7 sections 2014, 3175; title 29 section 984.

PART B—COORDINATION

§§ 2972 to 2980

TRANSFER OF FUNCTIONS

The Economic Opportunity Council, established pursuant to this Part, was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 5G of Reorg. Plan No. 1 of 1977 transferred all functions vested in the Economic Opportunity Council to the President with power to delegate the performance of such transferred functions within the Executive Office of the President.

SUBCHAPTER X—LEGAL SERVICES CORPORATION

§ 2996. Congressional findings and declaration of purpose

The Congress finds and declares that—

[*See main edition for text of (1) and (2)*]

(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this chapter.

[*See main edition for text of (4) to (6)*]

(As amended Pub. L. 95-222, § 2, Dec. 28, 1977, 91 Stat. 1619.)

AMENDMENTS

1977—Par. (3). Pub. L. 95-222 added provision relating to assistance in improving opportunities for low-income persons consistent with this chapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 17(b) of Pub. L. 95-222 provided that: "The amendments made by provisions of this Act other than sections 11 and 15 [amending sections 2996, 2996c, 2996e, 2996f(a), (b), (f), and (h), 2996g, 2996h, 2996i(d), and 2996j of this title] shall be effective on the date of enactment of this Act [Dec. 28, 1977]."

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-222 provided that: "This Act [amending sections 2996, 2996c, and 2996e to 2996j of this title, and enacting provisions set out as notes under sections 2701, 2996, 2996f and 2996i of this title] may be cited as the 'Legal Services Corporation Act Amendments of 1977'."

§ 2996c. Board of Directors

(a) Establishment; membership

The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States. Effective with respect to appointments made after December 28, 1977, but not later than July 31, 1978, the membership of the Board shall be appointed so as to include eligible clients, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public.

[*See main edition for text of (b) to (f)*]

(g) Open meetings; applicability of Government in the Sunshine provisions

All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this subchapter shall be open and shall be subject to the requirements and provisions of section 552b of title 5 (relating to open meetings).

[*See main edition for text of (h)*]

(As amended Pub. L. 95-222, §§ 3, 4, Dec. 28, 1977, 91 Stat. 1619.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-222, § 3, added provision relating to appointments made after Dec. 28, 1977.

Subsec. (g). Pub. L. 95-222, § 4, substituted provisions relating to applicability of section 552b of title 5, for provisions setting forth requirements respecting availability of minutes of public meetings.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

§ 2996e. Powers, duties, and limitations

(a) Powers of nonprofit corporation; additional powers

To the extent consistent with the provisions of this subchapter, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

[*See main edition for text of (1) and (2)*]

(3) to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance—

(A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,

[*See main edition for text of (B) and (C)*]

(b) Disciplinary powers; representational questions; interference with professional responsibilities of attorneys; bar membership; restrictions; languages other than English

(1)(A) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this subchapter and the rules, regulations, and guidelines promulgated pursuant to this subchapter, and to terminate, after a hearing in accordance with section 2996j of this title, financial support to a recipient which fails to comply.

(B) No question of whether representation is authorized under this subchapter, or the rules, regulations or guidelines promulgated pursuant to this subchapter, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law.

[*See main edition for text of (2) to (6)*]

(c) Participation in litigation; lobbying activities

The Corporation shall not itself—

(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this subchapter or a regulation promulgated under this subchapter is an issue, and shall not participate on behalf of any client other than itself; or

[*See main edition for text of (2)*]

(d) Miscellaneous prohibitions

[*See main edition for text of (1) to (5)*]

(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

(e) Political activities of Corporation employees and staff attorneys

[*See main edition for text of (1)*]

(2) Employees of the Corporation and staff attorneys shall be deemed to be State or local employees for purposes of chapter 15 of title 5, except that no staff attorney may be a candidate in a partisan political election

[*See main edition for text of (2)*]

(f) Harrassment; malicious abuse of legal process

If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harrassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

(As amended Pub. L. 95-222, §§ 5(a), (b), 6, 7(a), 8, Dec. 28, 1977, 91 Stat. 1619, 1620.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, as amended, which is classified generally to chapter 10 (§ 29-1001 et seq.) of Title 29, Corporations, of the District of Columbia Code. Section 1005(o) of the District of Columbia Code, referred to in subsec. (a), means section 5(o) of the District of Columbia Nonprofit Corporation Act.

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-222, §§ 5(a), (b), substituted ", or" for "and not" and in par. (A) added exception for broad general legal or policy research.

Subsec. (b)(1). Pub. L. 95-222, § 6(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(1). Pub. L. 95-222, § 6(b), added provisions setting forth situations when the Corporation may participate in litigation.

Subsec. (d)(6). Pub. L. 95-222, § 6(c), added subsec. (d)(6).

Subsec. (e)(2). Pub. L. 95-222, § 7(a), added provisions relating to staff attorneys.

Subsec. (f). Pub. L. 95-222, § 8, substituted "the court shall" for "the court may".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2996a, 2996i of this title.

§ 2996f. Grants and contracts

(a) Requisites

With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this subchapter, the Corporation shall—

[*See main edition for text of (1)*]

(2)[*See main edition for text of (A)*]

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

[*See main edition for text of* (i) *to* (iii)]

(iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

[*See main edition for text of* (3) *and* (4)]

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof—

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this subchapter of the recipient or the Corporation.

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

[*See main edition for text of* (7) *to* (10)]

(b) Limitations on uses

No funds made available by the Corporation under this subchapter, either by grant or contract, may be used—

(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a misdemeanor or lesser offense or its equivalent in an Indian tribal court;

(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(4) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with re-

spect to such client's legal rights and responsibilities; or

(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act [50 App. U.S.C. 451 et seq.] or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law.

[*See main edition for text of* (c) *to* (e)]

(f) Public notification

At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

[*See main edition for text of* (g)]

(h) Study and report to Congress on special needs of eligible clients

The Corporation shall conduct a study on whether eligible clients who are—

(1) veterans,

(2) native Americans,

(3) migrants or seasonal farm workers,

(4) persons with limited English-speaking abilities, and

(5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress not later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations.

(As amended Pub. L. 95-222, §§ 7(b), 9(a), (b)(1), (c), 10, 12, 13, Dec. 28, 1977, 91 Stat. 1620-1623.)

AMENDMENT OF SUBSECTION (c)

Pub. L. 95-222, §§ 11 and 17(a)(1) provided that effective 6 months after the first day of the first calendar month following Dec. 28, 1977, subsec. (c) *is amended to read as follows:*

(c) *In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided* (*except that the Corporation* (*1*) *shall, upon application, grant waivers to permit a legal services program, supported under section 2809*(*a*)(*3*) *of this title, which on July 25, 1974, has a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this subchapter, and* (*2*) *may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement*) *and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. Any such attorney, while serving on such board, shall not receive compensation from a recipient.*

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (b)(10), is act June 24, 1948, ch. 625, 62 Stat. 204, as amended, which is classified principally to section 451 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50 App. and Tables.

AMENDMENTS

1977—Subsec. (a)(2)(B)(iv). Pub. L. 95-222, § 9(a), substituted provisions setting forth factors which may be included in determining financial ability, for provisions setting forth factors required to be included in determining financial ability.

Subsec. (a)(2)(C). Pub. L. 95-222, § 9(b)(1), expanded existing provisions by requiring the Corporation to establish procedures for determining and implementing priorities and criteria for such priorities, and added provisions relating to appropriate training and support services.

Subsec. (a)(5). Pub. L. 95-222, § 9(c), in introductory matter added prohibition relating to influencing the passage or defeat of State proposals by initiative referendum, in subpar. (A) substituted provisions relating to representation by an employee of a recipient for any eligible client, for provisions relating to representation by an attorney as attorney for any eligible client, and in subpar. (B) designated existing provision as cl. (i) and, as so designated, added exception for testifying, drafting, or reviewing measures, and added cl. (ii).

Subsec. (a)(6). Pub. L. 95-222, § 7(b), struck out provisions relating to prohibitions against political activities by staff attorneys of the types described under cls. (B) and (C) of this par. and section 1502(a) of title 5.

Subsec. (b). Pub. L. 95-222, § 10, redesignated and reorganized provisions of former par. (1) as pars. (1) to (3) and, as so redesignated, enumerated criteria for assistance under such pars., redesignated former pars. (2) and (3) as (4) and (5), respectively, struck out former par. (4) relating to assistance to any unemancipated person of less than eighteen years of age, redesignated former par. (5) as (6), redesignated former par. (6) as (7) and, as so redesignated, added provision relating to initiation and provision relating to acting as an organizer, and struck out provisions relating to organization, assistance or encouragement to organize, or to plan for the creation, formation or structuring of entities, and provision respecting guidelines for assistance to clients, redesignated former par. (7) as (9) and, as so redesignated, added exception for legal advice to clients, reenacted par. (8) without change, and redesignated former par. (9) as (10) and, as so redesignated,

added exception for actions concerning classifications prior to July 1, 1973.

Subsec. (f). Pub. L. 95-222, § 12, added provision requiring notice to the principal local bar association, if any, of the community.

Subsec. (h). Pub. L. 95-222, § 13, added subsec. (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (a), (b), (f), and (h) by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2996e, 2996g of this title.

§ 2996g. Records and reports

[*See main edition for text of (a) and (b)*]

(c) Annual report to President and Congress; contents

The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress. Such report shall include a description of services provided pursuant to section 2996f(a)(2)(C)(i) and (ii) of this title.

[*See main edition for text of (d) and (e)*]

(As amended Pub. L. 95-222, § 9(b)(2), Dec. 28, 1977, 91 Stat. 1621.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-222 added provisions setting forth required contents of the annual report.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

§ 2996h. Audits

[*See main edition for text of (a)*]

(b) Audit by General Accounting Office

[*See main volume for text of (1)*]

(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 67(b) of title 31.

[*See main edition for text of (3); (c) and (d)*]

(As amended Pub. L. 95-222, § 14, Dec. 28, 1977, 91 Stat. 1623.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-222 added provisions relating to duration of retention of books, etc., by the Corporation.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

§ 2996i. Financing

(a) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000 for fiscal year 1975, $100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation $205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations.

[*See main edition for text of (b) and (c)*]

(d) Limitations on grant or contract authority

Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 2996e(a)(3) of this title in any such year.

(As amended Pub. L. 95-222, §§ 5(c), 15, Dec. 28, 1977, 91 Stat. 1619, 1623.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-222, § 15, added provisions authorizing appropriations for fiscal year 1978 and the two succeeding fiscal years, and substituted provisions requiring appropriations to be made for not more than two fiscal years and payments in annual installments at the beginning of each fiscal year in appropriated amounts, for provisions requiring appropriations to be for not more than two fiscal years, and, if for more than one year, in payments in annual installments at the beginning of each fiscal year in appropriated amounts.

Subsec. (d). Pub. L. 95-222, § 5(c), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 17(a)(2) of Pub. L. 95-222 provided that: "The amendment made by section 15 of this Act [amending subsec. (a) of this section] shall be effective with respect to fiscal years beginning after September 30, 1977."

Amendment of subsec. (d) by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

§ 2996j. Special limitations

The Corporation shall prescribe procedures to insure that—

[*See main edition for text of (1)*]

(2) financial assistance under this subchapter shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.

(As amended Pub. L. 95-222, § 16, Dec. 28, 1977, 91 Stat. 1624.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-222 added provisions relating to function and appointment of an independent hearing examiner, and the time for any hearings.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-222 effective on Dec. 28, 1977, see section 17(b) of Pub. L. 95-222, set out as an Effective Date of 1977 Amendment note under section 2996 of this title.

CHAPTER 35—PROGRAMS FOR OLDER AMERICANS

SUBCHAPTER VII—NUTRITION PROGRAM FOR THE ELDERLY

§ 3045f. Surplus commodities

(a) Donations; level of assistance

[*See main edition for text of (1) to (3)*]

(4) In donating commodities pursuant to this paragraph, the Secretary of Agriculture shall maintain an annually programed level of assistance of not less than 15 cents per meal during the fiscal year ending September 30, 1976, 25 cents per meal during the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978: *Provided*, That this amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this paragraph, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities pursuant to this paragraph, and, within ninety days after July 12, 1974, the Secretary of Agriculture shall issue regulations governing the donation of such commodities.

[*See main edition for text of (b) and (c)*]

(d) Cash payments in lieu of donations

(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this chapter, elect to receive cash payments in lieu of donated foods. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution facilities.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(As amended Pub. L. 95-65, § 2, July 11, 1977, 91 Stat. 269.)

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-65, § 2(a), substituted "25 cents per meal during the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978" for "and 25 cents per meal during the fiscal year ending September 30, 1977".

Subsec. (d)(1). Pub. L. 95-65, § 2(b)(1), substituted "a" for "in any case in which a State has phased out its commodity distribution facilities before June 30, 1974, such" following "Notwithstanding any other provision of law,".

Subsec. (d)(2). Pub. L. 95-65, § 2(b)(2), substituted "Such disbursements shall only be used" for "Such disbursements shall be used".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1762a, 3045g of this title.

CHAPTER 37—COMMUNITY FACILITIES AND ADVANCE LAND ACQUISITION

§ 3102. Grants for basic water and sewer facilities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3107, 3108, 3338, 3914, 4519, 5153, 5316 of this title; title 33 section 1281a.

§ 3103. Grants for neighborhood facilities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453a, 3107, 3108, 4519, 5316 of this title.

CHAPTER 38—PUBLIC WORKS AND ECONOMIC DEVELOPMENT

§ 3121. Congressional findings and statement of purpose

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Title II of Pub. L. 94-487, as amended by Pub. L. 95-31, title II, §§ 201, 202, May 23, 1977, 91 Stat. 170, provided that:

"SEC. 201. (a) The President of the United States is authorized and requested to call a White House Conference on Balanced National Growth and Economic Development within eighteen months of the date of enactment of this Act [Oct. 12, 1976] in order to develop recommendations for further action toward balanced national growth and economic development, and to take account of present conditions and trends as set forth in the report accompanying this Act [see Short Title of 1976 Amendment note above]. Such conference shall be planned and conducted under the direction of the domestic council with the cooperation and assistance of such other Federal departments and agencies, including the regional commissions established under the Appalachian Regional Development Act [section 1 et seq. of the Appendix to Title 40, Public Buildings, Property, and Works] and title V of the Public Works and Economic Development Act [subchapter V of this chapter].

* * * * *

"SEC. 202. In administering this title, the President shall—

"(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate:

"(2) give all reasonable assistance, including financial assistance, to the States to enable them to organize and conduct conferences on balanced growth and economic development;

"(3) prepare and make available background materials for the use of delegates to the White House Conference on Balanced National Growth and Economic Development as they may deem necessary;

"(4) prepare and distribute interim reports of the White House Conference on Balanced National Growth and Economic Development as may be appropriate;

"(5) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and chapter 53 of such title;

"(6) accept and use gifts or bequests of services, moneys and property; and

"(7) use appropriated funds and act as may be necessary and appropriate without regard to the provisions of section 551 of title 31, United States Code, section 34 of title 40, United States Code, and section 5 of title 41, United States Code."

* * * * *

SUBCHAPTER II—LOANS, LOAN GUARANTEES, AND ECONOMIC DEVELOPMENT REVOLVING FUND

§ 3142. Business loans and loan guarantees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2985a, 3131, 3141, 3142-1, 3143, 3161, 3162, 3171, 3211, 3220, 3221, 3222, 3223, 5318 of this title.

SUBCHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3171, 3232, 7265 of this title.

CHAPTER 41—DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT PROGRAM

SUBCHAPTER I—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4637, 5306, 5316 of this title.

CHAPTER 43—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER II—OFFICE OF INSPECTOR GENERAL

§ 3524. Reports

(a) Annual report; contents

The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

[*See main edition for text of (1) to (4)*]

Such report also shall include a detailed description of the cases referred by the Department of Health, Education, and Welfare to the Department of Justice during the period covered by the report, an evaluation of the performance of the Department of Justice in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII [42 U.S.C. 1395 et seq.] and XIX [42 U.S.C. 1396 et seq.] of the Social Security Act, and any recommendations with respect to improving the performance of such activities by the Department of Justice. Promptly, after the Inspector General submits such a report to Congress, the Attorney General shall report to Congress concerning the details of the disposition of the cases referred to the Department of Justice and described in the Inspector General's report.

[*See main edition for text of (b) to (e)*]

(As amended Pub. L. 95-142, § 4(c), Oct. 25, 1977, 91 Stat. 1183.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of such Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-142 added provisions requiring the annual report to contain information respecting cases referred by the Department to the Department of Justice during the covered period, including an evaluation, etc., of the performance of the Department of Justice.

CHAPTER 44—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec.
3540. Prototype housing costs; annual publication [New].

§ 3533. Officers of Department

[*See main edition for text of (a) to (c)*]

(d) Special Assistant for Indian and Alaska Native Programs; report to Congress

(1) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be responsible for coordinating all programs of the Department relating to Indian and Alaska Native housing and community development. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after October 12, 1977.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

(B) estimates of the cost of the projected activities for succeeding fiscal years;

(C) a statistical report on the conditions of Indian and Alaska Native housing; and

(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.

(As amended Pub. L. 95-128, title IX, § 901, Oct. 12, 1977, 91 Stat. 1148.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-128 added subsec. (d).

§ 3535. Administrative provisions

CODIFICATION

Pub. L. 90-248, title VIII, § 808(b)(2), Apr. 11, 1968, 82 Stat. 84, cited in the credit of this section in the main edition should be "Pub. L. 90-284, title VIII, § 808(b)(2), Apr. 11, 1968, 82 Stat. 84.

§ 3540. Prototype housing costs; annual publication

(a) Beginning in calendar year 1979, the Secretary of Housing and Urban Development shall prepare and publish annually prototype housing costs for one- to four-family dwelling units for each housing market area in the United States, as determined by the Secretary. Prototype housing costs for an area shall be determined on the basis of the Secretary's identification and estimate of reasonable construction and other costs (including reasonable allowances for the cost of land and site improvements) for that area of various types and sizes of new one- to four-family dwelling units designed for various segments of the housing market of the area, as determined by the Secretary. In determining prototype housing costs, the Secretary is authorized to take into account the need for durability required for economic maintenance of housing, the need for amenities suitable to assure a safe and healthy family life and neighborhood environment, the application of good design and quality in architecture, and the need for maximum conservation of energy, as well as the advice and recommendations of local housing producers.

(b) The Secretary is authorized to take such action as may be necessary to develop, aggregate, and evaluate data and other information required for the timely development, implementation, and maintenance of the prototype housing cost system referred to in subsection (a) of this section.

(Pub. L. 95-128, title IX, § 904, Oct. 12, 1977, 91 Stat. 1149.)

CHAPTER 45—FAIR HOUSING

SUBCHAPTER I—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6727 of this title; title 23 section 117; title 31 section 1242; title 49 sections 1604, 1716.

CHAPTER 46—LAW ENFORCEMENT ASSISTANCE AND CRIMINAL JUSTICE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 300d-5, 3888, 5611, 5751 of this title.

SUBCHAPTER II—PLANNING GRANTS

§ 3723. State planning agency

(a) Establishment and maintenance; creation by responsibility to chief executive; representative capacity; composition of agency and regional planning units

(1) A grant made under this subchapter to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1978. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention. The Chairman and at least two additional citizen members of any advisory group established pursuant to section 5633(a)(3) of this title shall be appointed to the State planning agency as members thereof. These individuals may be considered in meeting the general representation requirements of this section. Any executive committee of a State planning agency shall include in its membership the same proportion of advisory group members as the total number of such members bears to the total membership of the State planning agency.

[*See main edition for text of (2); (b) to (g)*]

(As amended Pub. L. 95-115, § 9(b), Oct. 3, 1977, 91 Stat. 1061.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-115 added provisions relating to appointment of Chairman and at least two members, and provisions relating to any executive committee of the agency.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3734, 3767, 5633 of this title.

SUBCHAPTER V—ADMINISTRATIVE PROVISIONS

§ 3751. Rules, regulations, and procedures

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3781, 5672 of this title.

§ 3754. Place in United States for hearings, subpenas, oaths, examination of witnesses, and reception of evidence

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5672 of this title.

§ 3755. Officers, employees, and hearing examiners; increase in Federal share of program costs for Indian tribes or other aboriginal groups; waiver of State liability; pursuit of legal remedies against Indian tribes

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5672 of this title.

§ 3757. Withholding of payments for noncompliance with certain requirements; notice and hearing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3736, 3750d, 3759, 3767, 5633, 5638, 5672 of this title.

§ 3758. Administration proceedings

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3759, 5633, 5672 of this title.

§ 3759. Judicial review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3766, 5633, 5672 of this title.

§ 3764. Payments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5672 of this title.

§ 3766. Construction unauthorized

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3757, 3767, 5672 of this title.

§ 3767. Reports to President and Congress; contents

On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives, and to the Committee on Education and Labor of the House of Representatives, on activities pursuant to the provisions of this chapter during the preceding fiscal year. Such report shall include—

[*See main edition for text of (1) to (9)*]

(10) an explanation of how the funds made available under sections 3736(a)(2), 3742(b), and 3750d(a)(2) of this title were expended, together with the policies, priorities, and criteria upon which the Administration based such expenditures;

(11) a description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 3750c of this title; and

(12) a summary of State compliance with section 5633(a)(12)-(14) of this title, the maintenance of effort requirement under section 5671(b) of this title and section 3768(b) of this title, State planning agency and regional planning unit representation requirements as set forth in section 3723 of this title, and other areas of state activity in carrying out juvenile justice and delinquency prevention programs under the comprehensive State plan.

(As amended Pub. L. 95-115, § 9(a), Oct. 3, 1977, 91 Stat. 1060.)

AMENDMENTS

1977—Pub. L. 95-115 added reference to the Committee on Education and Labor of the House of Representatives, and added par. (12).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3768. Authorization of appropriations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3767, 5633 of this title.

§ 3769. Recordkeeping requirements

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5672 of this title.

§ 3771. Information available for prescribed purposes

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5672 of this title.

CHAPTER 47—JUVENILE DELINQUENCY PREVENTION AND CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3795 of this title.

SUBCHAPTER I—PREVENTIVE SERVICES AND DEMONSTRATION PROGRAMS

PART A—COMMUNITY-BASED COORDINATED YOUTH SERVICES

§ 3811. Congressional statement of purpose

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3812. Grants for planning programs; applications for grants

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3813. Use of funds

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3814. Considerations for approval of applications

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART B—DEMONSTRATIONS IN YOUTH DEVELOPMENT

§ 3821. Grants to States, agencies, etc.; purpose; application; contents; duration

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SUBCHAPTER IV—ADMINISTRATION

§ 3882. Authorization of appropriations

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3883. Amounts available to each State

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3888. Coordination

REPEALS

Title IV of Pub. L. 93-415, cited in the credit to this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 3889. Repealed. Pub. L. 93-415, title IV, § 402(b), Sept. 7, 1974, 88 Stat. 1133

REPEALS

Title IV of Pub. L. 93-415, which repealed this section, was repealed by Pub. L. 95-115, § 10, Oct. 3, 1977, 91 Stat. 1061.

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

CHAPTER 50—NATIONAL FLOOD INSURANCE

§ 4001. Congressional findings and declaration of purpose

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

§ 4003. Additional definitions

(a) As used in this Act, unless the context otherwise requires, the term—

[*See main edition for text of (1) to (3)*]

(4) "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the

purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.] (other than assistance under such Act in connection with a flood);

[*See main edition for text of* (5) *and* (6); (b)]

(As amended Pub. L. 95-128, title VII, § 703(b), Oct. 12, 1977, 91 Stat. 1145.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974 and such Act, referred to in subsec. (a)(4), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-128 substituted "assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood)" for "assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970."

SUBCHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

§ 4012a. Requirement of flood insurance for Federal approval of financial assistance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4013 of this title.

§ 4013. Nature and limitation of insurance coverage; regulations

[*See main edition for text of* (a)]

(b) In addition to any other terms and conditions under subsection (a) of this section, such regulations shall provide that—

[*See main edition for text of* (1)]

(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or applicant to receive coverage up to an amount of $150,000 under the provisions of this clause;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to an amount of $50,000 under the provisions of this clause;

(4) in the case of business property owned, leased, or operated by small business concerns for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in subparagraph (B) of paragraph (1) shall be made available to every such owner, lessee, or operator in respect to any single structure, including any contents thereof, related to premises of small business occupants (as that term is defined by the Secretary), up to an amount equal to (i) $250,000 plus (ii) $200,000 multiplied by the number of such occupants which coverage shall be allocated among such occupants (or among the occupant or occupants and the owner) in accordance with the regulations prescribed by the Secretary pursuant to such subparagraph (B), except that the aggregate liability for the structure itself may in no case exceed $250,000;

(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 4015 of this title, which are not less than the estimated premium rates under section 4014(a)(1) of this title, and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable; and

(6) the flood insurance purchase requirements of section 4012a of this title do not apply to the additional flood insurance limits made available in excess of twice the limits made available under paragraph (1).

(As amended Pub. L. 95-128, title VII, § 704(a), Oct. 12, 1977, 91 Stat. 1145.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-128 added par. (2) and redesignated former par. (2) as (5).

Subsec. (b)(3), (4). Pub. L. 95-128 added pars. (3) and (4).

Subsec. (b)(5). Pub. L. 95-128 redesignated former par. (2) as (5), and as so redesignated, deleted "(or allocated to any person under subparagraph (B) of such paragraph)" following "paragraph (1)" and inserted "under paragraph (1)(C), (2), (3), or (4), as applicable" following "(or allocated)".

Subsec. (b)(6). Pub. L. 95-128 added par. (6).

§ 4026. Expiration of program

No new contract for flood insurance under this chapter shall be entered into after September 30, 1978.

(As amended Pub. L. 95-60, § 3, June 30, 1977, 91 Stat. 257; Pub. L. 95-80, § 3, July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title VII, § 701(a), Oct. 12, 1977, 91 Stat. 1144.)

AMENDMENTS

1977—Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM

PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

§ 4056. Emergency implementation of flood insurance program; applicability of other provisions of law

(a) Notwithstanding any other provisions of this chapter, for the purpose of providing flood insurance coverage at the earliest possible time, the Secretary shall carry out the flood insurance program authorized under subchapter I of this chapter during the period ending September 30, 1978, in accordance with the provisions of this part and the other provisions of this chapter insofar as they relate to this part but subject to the modifications made by or under subsection (b) of this section.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-128, title VII, § 701(b), Oct. 12, 1977, 91 Stat. 1144.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128 substituted "September 30, 1978" for "September 30, 1977".

SUBCHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

§ 4103. Purchase of insured properties damaged substantially beyond repair by flood

(a) Transfers to State or local agencies for use for prescribed period consistent with sound land management and use

The Secretary may, when he determines that the public interest would be served thereby, enter into negotiations with any owner of real property or interest therein which—

(1) was located in any flood-risk area, as determined by the Secretary,

(2) was covered by flood insurance under the flood insurance program authorized under this chapter, and

(3) incurred significant flood damage on not less than three previous occasions over a five-year period of time and on each occasion the cost of repair, on the average, equaled or exceeded 25 per centum of the value of the structure at the time of each flood event or was damaged substantially beyond repair by flood while so covered,

and may purchase such property or interests therein, for subsequent transfer, by sale, lease, donation, or otherwise, to any State or local agency which enters into an agreement with the Secretary that such property shall, for a period not less than forty years following transfer, be used for only such purposes as the Secretary may, by regulation, determine to be consistent with sound land management and use in such area.

(b) Real property purchases; single casualty damages

When any real property referred to in paragraphs (1) and (2) of subsection (a) of this section has sustained damage as a result of a single casualty of any nature under such circumstances that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost, the Secretary may enter into negotiations with the owner of the property or interest therein for the purchase of such property for the uses and purposes of this section.

(c) Low-interest loans for single-family dwellings; authorization of appropriations

Whenever, as a result of damage from any casualty, the repair, reconstruction, or substantial improvement of any single-family dwelling structure located within a regulatory floodway and insured under the flood insurance program is deemed by the Secretary to be made more effective from the standpoint of prudent flood plain management by elevation of the structure so it will not interfere with the flow of water from the base flood within such regulatory floodway, the Secretary is authorized to make a low-interest loan at a rate of interest of 2 per centum per annum, repayable in ten years, to the owner of any such structure for the purpose of so elevating the structure. There is authorized to be appropriated for purposes of implementing this subsection not to exceed $4,500,000.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the purposes of this section.

(As amended Pub. L. 95-128, title VII, § 704(b), Oct. 12, 1977, 91 Stat. 1145.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 704(b)(1), (2), designated existing provisions as subsec. (a) and inserted in par. (3) provisions respecting property incurring significant flood damage on not less than three previous occasions over a five-year period of time.

Subsecs. (b) to (d). Pub. L. 95-128, § 704(b)(3), added subsecs. (b) to (d).

§ 4104. Flood elevation determinations

[*See main edition for text of* (*a*) *to* (*e*)]

(f) Reimbursement of certain expenses; appropriation authorization

When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Secretary shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Secretary in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated

for purposes of implementing this subsection, not to exceed $250,000.

(g) Judicial review of final administrative determinations; venue; time for appeal; scope of review; good cause for stay of final determinations

Any appellant aggrieved by any final determination of the Secretary upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5. During the pendency of any such litigation, all final determinations of the Secretary shall be effective for the purposes of this chapter unless stayed by the court for good cause shown.

(As amended Pub. L. 95-128, title VII, § 704(c), Oct. 12, 1977, 91 Stat. 1146.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-128, § 704(c)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-128, § 704(c)(1), redesignated former subsec. (f) as (g).

§ 4104a. Notification of purchaser or lessee of special flood hazards in area of location of improved real estate or mobile home securing loan; regulations prescribing procedures

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4106 of this title.

§ 4105. Disaster mitigation requirements; notification to flood-prone areas

[*See main edition for text of* (*a*) *to* (*d*)]

(e) Administrative procedures; establishment; reimbursement of certain expenses; appropriation authorization

The Secretary is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Secretary by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Secretary shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Secretary in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed "$250,000.[1]

(As amended Pub. L. 95-128, title VII, § 704(d), Oct. 12, 1977, 91 Stat. 1146.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-128 added subsec. (e).

§ 4106. Nonparticipation in flood insurance program

[*See main edition for text of* (*a*)]

(b) Notification of purchaser or lessee of property in flood hazard area of availability of Federal disaster relief assistance in the event of a flood disaster

In addition to the requirements of section 4104a of this title, each Federal instrumentality described in such section shall by regulation require the institutions described in such section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property.

(As amended Pub. L. 95-128, title VII, § 703(a), Oct. 12, 1977, 91 Stat. 1144.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-128 substituted provisions respecting notification of purchaser or lessee of property in flood hazards area of availability of Federal disaster relief assistance in the event of a flood disaster for prior provisions relating to: Federal regulations against loans by financial institutions, unaffected pre-March 1, 1976 residences, small business concerns, improvements under $5,000 and nonresidential farm improvement.

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 4127. Authorization of appropriations; availability

[*See main edition for text of* (*a*) *and* (*b*)]

(c) There are authorized to be appropriated for studies under this title not to exceed $100,000,000 for the fiscal year 1977 and not to exceed $108,000,000 for the fiscal year 1978.

(As amended Pub. L. 95-128, title VII, § 702, Oct. 12, 1977, 91 Stat. 1144.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-128 authorized appropriation of $108,000,000 for fiscal year 1978.

§ 4128. Rules and regulations

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods

[1] So in original. Quotation marks preceding $250,000 probably should be deleted.

on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

CHAPTER 51—DESIGN AND CONSTRUCTION OF PUBLIC BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3041a, 6042, 6063, 6705 of this title; title 20 sections 355b, 1132d-11, 1406, 2441, 2443; title 29 sections 776, 792; title 39 section 410.

CHAPTER 55—NATIONAL ENVIRONMENTAL POLICY

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

Sec.
4361a. Budget projections in annual revisions of plan for research, development, and demonstration [New].
4361b. Implementation by Administrator of Environmental Protection Agency of recommendations of "CHESS" Investigative Report; waiver; inclusion of status of implementation requirements in annual revisions of plan for research, development, and demonstration [New].
4362. Interagency cooperation on prevention of environmental cancer and heart and lung disease [New].
4363. Continuing and long-term research and development program; establishment with separate identity; allocation of funds; report concerning establishment of a national environmental laboratory or system of laboratories for program assistance, etc. [New].
4364. Expenditure of funds for research and development related to regulatory program activities [New].
(a) Coordination, etc., with research needs and priorities of program offices and Environmental Protection Agency.
(b) Program offices subject to coverage.
(c) Report to Congress; contents.
4365. Science Advisory Board [New].
(a) Establishment by and advice to Administrator of Environmental Protection Agency.
(b) Membership; Chairman; meetings; qualifications of members.
(c) Review and comment on plan for research, development, and demonstration and annual revisions; transmission to Congress.
(d) Review and report to Administrator, President, and Congress concerning authorized health effects research, etc.
(e) Proposed environmental criteria, document, standard, limitation, or regulation; functions respecting in conjunction with Administrator.
(f) Utilization of technical and scientific capabilities of Federal agencies and national environmental laboratories for determining adequacy of scientific and technical basis of proposed criteria document, etc.
(g) Member committees and investigative panels; establishment; chairmenship.
(h) Appointment and compensation of secretary and other personnel; compensation of members.
(i) Consultation and coordination with Scientific Advisory Panel.
4366. Identification and coordination of research, development, and demonstration activities [New].
(a) Consultation and cooperation of Administrator of Environmental Protection Agency with heads of Federal agencies; inclusion of activities in annual revisions of plan for research, etc.
(b) Coordination of programs by Administrator.
(c) Joint study by Council on Environmental Quality in consultation with Office of Science and Technology Policy for coordination of activities; report to President and Congress; report by President to Congress on implementation of joint study and report.
4367. Reporting requirements of financial interests of officers and employees of Environmental Protection Agency [New].
(a) Covered officers and employees.
(b) Implementation of requirements by Administrator.
(c) Exemption of positions by Administrator.
(d) Violations; penalties.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2242, 4374, 5175, 5304, 7616 of this title; title 10 section 2687; title 15 sections 719f, 719h, 793; title 16 sections 590h, 1602, 1604; title 21 section 343; title 23 section 117; title 30 sections 185, 1292; title 33 sections 59c-2, 59k, 59n, 59o, 1293a, 1344, 1371, 1505; title 43 sections 421h, 1577, 1597, 1652; title 49 sections 1604, 1716.

§ 4321. Congressional declaration of purpose

EX. ORD. NO. 11472. CABINET COMMITTEE ON THE ENVIRONMENT AND CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Ex. Ord. No. 11472, May 29, 1969, 34 F.R. 8693, as amended by Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

* * * * *

PART II. CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

[Revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

* * * * *

TERMINATION OF CABINET COMMITTEE ON THE ENVIRONMENT

* * * * *

The Domestic Council was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in the Domestic Council to the President with power to delegate the performance of such transferred functions within the Executive Office of the President.

CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

For provisions relating to termination of, see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, set out as a note under section 14 of Appendix of Title 5, Government Organization and Employees.

EX. ORD. NO. 11514. PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247, as amended by Ex. Ord. No. 11991 May 24, 1977, 42 F.R. 26967, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970) [this chapter], it is ordered as follows:

* * * * *

SEC. 2. *Responsibilities of Federal agencies.* Consonant with Title I of the National Environmental Policy Act of 1969 [sections 4331-4335 of this title], hereafter referred to as the "Act", the heads of Federal agencies shall:

* * * * *

(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

SEC. 3. *Responsibilities of Council on Environmental Quality.* The Council on Environmental Quality shall:

* * * * *

(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decision-makers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended [this chapter], and Section 309 of the Clean Air Act, as amended [section 7609 of this title], for the Council's recommendation as to their prompt resolution.

* * * * *

EX. ORD. NO. 11644. USE OF OFF-ROAD VEHICLES ON PUBLIC LANDS

Ex. Ord. No. 11644, Feb. 8, 1972, 37 F.R. 2877, as amended by Ex. Ord. No. 11989, May 24, 1977, 42 F.R. 26959, provided:

* * * * *

SEC. 2. *Definitions.* As used in this order, the term:

* * * * *

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

* * * * *

SEC. 9. *Special Protection of the Public Lands.* (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.

EX. ORD. NO. 11987. EXOTIC ORGANISMS

Ex. Ord. No. 11987, May 24, 1977, 42 F.R. 26949, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the purposes and policies of the Lacey Act (18 U.S.C. 42) and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), it is hereby ordered as follows:

SECTION 1. As used in this Order:

(a) "United States" means all of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(b) "Introduction" means the release, escape, or establishment of an exotic species into a natural ecosystem.

(c) "Exotic species" means all species of plants and animals not naturally occurring, either presently or historically, in any ecosystem of the United States.

(d) "Native species" means all species of plants and animals naturally occurring, either presently or historically, in any ecosystem of the United States.

SEC. 2. (a) Executive agencies shall, to the extent permitted by law, restrict the introduction of exotic species into the natural ecosystems on lands and waters which they own, lease, or hold for purposes of administration; and, shall encourage the States, local governments, and private citizens to prevent the introduction of exotic species into natural ecosystems of the United States.

(b) Executive agencies, to the extent they have been authorized by statute to restrict the importation of exotic species, shall restrict the introduction of exotic species into any natural ecosystem of the United States.

(c) Executive agencies shall, to the extent permitted by law, restrict the use of Federal funds, programs, or authorities used to export native species for the purpose of introducing such species into ecosystems outside the United States where they do not naturally occur.

(d) This Order does not apply to the introduction of any exotic species, or the export of any native species, if the Secretary of Agriculture or the Secretary of the Interior finds that such introduction or exportation will not have an adverse effect on natural ecosystems.

SEC. 3. The Secretary of the Interior, in consultation with the Secretary of Agriculture and the heads of

other appropriate agencies, shall develop and implement, by rule or regulation, a system to standardize and simplify the requirements, procedures and other activities appropriate for implementing the provisions of this Order. The Secretary of the Interior shall ensure that such rules or regulations are in accord with the performance by other agencies of those functions vested by law, including this Order, in such agencies.

JIMMY CARTER.

EX. ORD. NO. 11988. FLOODPLAIN MANAGEMENT

Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (Public Law 93-234, 87 Stat. 975) [see Short Title of 1973 Amendment note set out under section 4001 of this title], in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

SEC. 2. In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain—for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act [section 4332(2)(C) of this title]. This determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A-95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and areawide A-95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out as a note above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [section 4332(2)(C) of this title].

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Federal Insurance Administration, and the Council on Environmental Quality, and shall update such procedures as necessary.

SEC. 3. In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. They shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

SEC. 4. In addition to any responsibilities under this Order and Sections 202 and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4106 and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in a floodplain shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the floodplain.

SEC. 5. The head of each agency shall submit a report to the Council on Environmental Quality and to the Water Resources Council on June 30, 1978, regarding the status of their procedures and the impact of this Order on the agency's operations. Thereafter, the Water Resources Council shall periodically evaluate agency procedures and their effectiveness.

SEC. 6. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting floodplains.

(b) The term "base flood" shall mean that flood which has a one percent or greater chance of occurrence in any given year.

(c) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

SEC. 7. Executive Order No. 11296 of August 10, 1966, is hereby revoked. All actions, procedures, and issuances taken under that Order and still in effect shall remain in effect until modified by appropriate authority under the terms of this Order.

SEC. 8. Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SEC. 9. To the extent the provisions of Section 2(a) of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [this chapter].

JIMMY CARTER.

EX. ORD. NO. 11990. PROTECTION OF WETLANDS

Ex. Ord. No. 11990, May 24, 1977, 42 F.R. 26961, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. (a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property.

SEC. 2. (a) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)(3)) to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out as a note above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [section 4332(2)(C) of this title].

SEC. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

SEC. 4. When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

SEC. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora

and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

SEC. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order.

SEC. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SEC. 8. This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

SEC. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SEC. 10. To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [this chapter].

JIMMY CARTER.

SUBCHAPTER I—POLICIES AND GOALS

§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2242, 4334, 7153, 7609 of this title; title 15 section 793; title 16 section 1604; title 30 sections 185, 1292; title 33 section 1504; title 43 section 1751; title 45 section 791; title 49 section 1431.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 4361. Plan for research, development, and demonstration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4361a, 4361b, 4365, 4366 of this title.

§ 4361a. Budget projections in annual revisions of plan for research, development, and demonstration

The Administrator of the Environmental Protection Agency, in each annual revision of the five-year plan transmitted to the Congress under section 4361 of this title, shall include budget projections for a "no-growth" budget, for a "moderate-growth" budget, and for a "high-growth" budget. In addition, each such annual revision shall include a detailed explanation of the relationship of each budget projection to the existing laws which authorize the Administration's environmental research, development, and demonstration programs.

(Pub. L. 95-155, § 4, Nov. 8, 1977, 91 Stat. 1258.)

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

§ 4361b. Implementation by Administrator of Environmental Protection Agency of recommendations of "CHESS" Investigative Report; waiver; inclusion of status of implementation requirements in annual revisions of plan for research, development, and demonstration

The Administrator of the Environmental Protection Agency shall implement the recommendations of the report prepared for the House Committee on Science and Technology entitled "The Environmental Protection Agency Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report", unless for any specific recommendation he determines (1) that such recommendation has been implemented, (2) that implementation of such recommendation would not enhance the quality of the research, or (3) that implementation of such recommendation will require funding which is not available. Where such funding is not available, the Administrator shall request the required authorization or appropriation for such implementation. The Administrator shall report the status of such implementation in each annual revision of the five-year plan transmitted to the Congress under section 4361 of this title.

(Pub. L. 95-155, § 10, Nov. 8, 1977, 91 Stat. 1262.)

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National En-

vironmental Policy Act of 1969, which comprises this chapter.

§ 4362. Interagency cooperation on prevention of environmental cancer and heart and lung disease

(a) Not later than three months after August 7, 1977, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the "Task Force"). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Occupational Safety and Health, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

(b) The Task Force shall—

(1) recommend a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

(2) recommend comprehensive strategies to reduce or eliminate the risks of cancer or such other diseases associated with environmental pollution;

(3) recommend research and such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

(4) coordinate research by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health, Education, and Welfare, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

(5) report to Congress, not later than one year after August 7, 1977, and annually thereafter, on the problems and progress in carrying out this section.

(Pub. L. 95-95, title IV, § 402, Aug. 7, 1977, 91 Stat. 791.)

CODIFICATION

Section was enacted as part of the Clean Air Act Amendments of 1977 and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 4363. Continuing and long-term research and development program; establishment with separate identity; allocation of funds; report concerning establishment of a national environmental laboratory or system of laboratories for program assistance, etc.

(a) The Administrator of the Environmental Protection Agency shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of any funds appropriated to the Administrator for environmental research and development under section 2(a) of this Act or under any other Act shall be allocated for long-term environmental research and development under this section.

(b) The Administrator, after consultation with the Science Advisory Board, shall submit to the President and the Congress a report concerning the desirability and feasibility of establishing a national environmental laboratory, or a system of such laboratories, to assume or supplement the long-term environmental research functions created by subsection (a) of this section. Such report shall be submitted on or before March 31, 1978, and shall include findings and recommendations concerning—

(1) specific types of research to be carried out by such laboratory or laboratories;

(2) the coordination and integration of research to be conducted by such laboratory or laboratories with research conducted by existing Federal or other research facilities;

(3) methods for assuring continuing long-range funding for such laboratory or laboratories; and

(4) other administrative or legislative actions necessary to facilitate the establishment of such laboratory or laboratories.

(Pub. L. 95-155, § 6, Nov. 8, 1977, 91 Stat. 1259.)

REFERENCES IN TEXT

Section 2(a) of this Act, referred to in subsec. (a), is Pub. L. 95-155, § 2(a), Nov. 8, 1977, 91 Stat. 1257, which was not classified to the Code.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

§ 4364. Expenditure of funds for research and development related to regulatory program activities

(a) Coordination, etc., with research needs and priorities of program offices and Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the overall research needs and priorities of the Agency, including those defined in the five-year research plan.

(b) Program offices subject to coverage

For purposes of subsection (a) of this section, the appropriate program offices are—

(1) the Office of Air and Waste Management, for air quality activities;

(2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;

(3) the Office of Pesticides, for environmental effects of pesticides;

(4) the Office of Solid Waste, for solid waste activities;

(5) the Office of Toxic Substances, for toxic substance activities;

(6) the Office of Radiation Programs, for radiation activities; and

(7) the Office of Noise Abatement and Control, for noise activities.

(c) Report to Congress; contents

The Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the Agency reflect the needs and priorities of the regulatory program offices, while maintaining a high level of scientific quality. Such report shall be submitted on or before March 31, 1978.

(Pub. L. 95-155, § 7, Nov. 8, 1977, 91 Stat. 1259.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 95-155, Nov. 8, 1977, 91 Stat. 1257, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j-3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

§ 4365. Science Advisory Board

(a) Establishment by and advice to Administrator of Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall establish a Science Advisory Board which shall provide such scientific advice as the Administrator requests.

(b) Membership; Chairman; meetings; qualifications of members

Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

(c) Review and comment on plan for research, development, and demonstration and annual revisions; transmission to Congress

In addition to providing scientific advice when requested by the Administrator under subsection (a) of this section, the Board shall review and comment on the Administration's five-year plan for environmental research, development, and demonstration provided for by section 4361 of this title and on each annual revision thereof. Such review and comment shall be transmitted to the Congress by the Administrator, together with his comments thereon, at the time of the transmission to the Congress of the annual revision involved.

(d) Review and report to Administrator, President, and Congress concerning authorized health effects research, etc.

The Board shall conduct a review of and submit a report to the Administrator, the President, and the Congress, not later than October 1, 1978, concerning—

(1) the health effects research authorized by this Act and other laws;

(2) the procedures generally used in the conduct of such research;

(3) the internal and external reporting of the results of such research;

(4) the review procedures for such research and results;

(5) the procedures by which such results are used in internal and external recommendations on policy, regulations, and legislation; and

(6) the findings and recommendations of the report to the House Committee on Science and Technology entitled "The Environmental Protection Agency's Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report".

The review shall focus special attention on the procedural safeguards required to preserve the scientific integrity of such research and to insure reporting and use of the results of such research in subsequent recommendations. The report shall include specific recommendations on the results of the review to ensure scientific integrity throughout the Agency's health effects research, review, reporting, and recommendation process.

(e) Proposed environmental criteria document, standard, limitation, or regulation; functions respecting in conjunction with Administrator

(1) The Administrator, at the time any proposed criteria document, standard, limitation, or regulation under the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Resource Conservation and Recovery Act of 1976 [42 U.S.C. 6901 et seq.], the Noise Control Act [42 U.S.C. 4901 et seq.], the Toxic Substances Control Act [15 U.S.C. 2601 et seq.], or the Safe Drinking Water Act [42 U.S.C. 300f et seq.], or under any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

(f) Utilization of technical and scientific capabilities of Federal agencies and national environmental laboratories for determining adequacy of scientific and technical basis of proposed criteria document, etc.

In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

(g) Member committees and investigative panels; establishment; chairmenship

The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board.

(h) Appointment and compensation of secretary and other personnel; compensation of members

(1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5.

(i) Consultation and coordination with Scientific Advisory Panel

In carrying out the functions assigned by this section, the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator pursuant to section 136w(d) of title 7.

(Pub. L. 95-155, § 8, Nov. 8, 1977, 91 Stat. 1260.)

REFERENCES IN TEXT

This Act, referred to in subsec.(d)(1), is Pub. L. 95-155, Nov. 8, 1977, 91 Stat. 1257, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j-3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

The Clean Air Act, referred to in subsec. (e)(1), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (e)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Resource Conservation and Recovery Act of 1976, referred to in subsec. (e)(1), is Pub. L. 94-580, Oct. 21, 1976, 90 Stat. 2796, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Noise Control Act, referred to in subsec. (e)(1), probably means the Noise Control Act of 1972, Pub. L. 92-574, Oct. 27, 1972, 86 Stat. 1234, as amended, which is classified principally to chapter 65 (§ 4901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4901 of this title and Tables.

The Toxic Substances Control Act, referred to in subsec. (e)(1), is Pub. L. 94-469, Oct. 11, 1976, 90 Stat. 2003, which is classified generally to chapter 53 (§ 2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in subsec. (e)(1), is Pub. L. 93-523, Dec. 16, 1974, 88 Stat. 1660, as amended, which is classified principally to subchapter XII (§ 300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title of 1974 Amendments note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

TERMINATION OF ADVISORY BOARDS

Advisory Boards established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4366. Identification and coordination of research, development, and demonstration activities

(a) Consultation and cooperation of Administrator of Environmental Protection Agency with heads of Federal agencies; inclusion of activities in annual revisions of plan for research, etc.

The Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to identify environmental research, development, and demonstration activities, within and outside the Federal Government, which may need to be more effectively coordinated in order to minimize unnecessary duplication of programs, projects, and research facilities;

(2) to determine the steps which might be taken under existing law, by him and by the heads of such other agencies, to accomplish or promote such coordination, and to provide for or encourage the taking of such steps; and

(3) to determine the additional legislative actions which would be needed to assure such coordination to the maximum extent possible.

The Administrator shall include in each annual revision of the five-year plan provided for by section 4361 of this title a full and complete report on the actions taken and determinations made during the preceding year under this subsection, and may submit interim reports on such actions and determinations at such other times as he deems appropriate.

(b) Coordination of programs by Administrator

The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of such Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

(c) Joint study by Council on Environmental Quality in consultation with Office of Science and Technology Policy for coordination of activities; report to President and Congress; report by President to Congress on implementation of joint study and report

(1) In order to promote the coordination of environmental research and development activities, and to assure that the action taken and methods used (under subsection (a) of this section and otherwise) to bring about such coordination will be as effective as possible for that purpose, the Council on Environmental Quality in consultation with the Office of Science and Technology Policy shall promptly undertake and carry out a joint study of all aspects of the coordination of environmental research and development. The Chairman of the Council shall prepare a report on the results of such study, together with such recommendations (including legislative recommendations) as he deems appropriate, and shall submit such report to the President and the Congress not later than May 31, 1978.

(2) Not later than September 30, 1978, the President shall report to the Congress on steps he has taken to implement the recommendations included in the report under paragraph (1), including any recommendations he may have for legislation.

(Pub. L. 95-155, § 9, Nov. 8, 1977, 91 Stat. 1261.)

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

§ 4367. Reporting requirements of financial interests of officers and employees of Environmental Protection Agency

(a) Covered officers and employees

Each officer or employee of the Environmental Protection Agency who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under this Act,

shall, beginning on February 1, 1978, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) Implementation of requirements by Administrator

The Administrator shall—

(1) act within ninety days after November 8, 1977—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemption of positions by Administrator

In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions of a nonpolicymaking nature within the Administration and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Violations; penalties

Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 95-155, § 12, Nov. 8, 1977, 91 Stat. 1263.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2), is Pub. L. 95-155, Nov. 8, 1977, 91 Stat. 1257, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j-3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969, which comprises this chapter.

CHAPTER 59—NATIONAL URBAN POLICY AND NEW COMMUNITY DEVELOPMENT

§ 4501. Congressional statement of purpose

It is the policy of the Congress and the purpose of this chapter to provide for the development of a national urban policy and to encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our States, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas which demonstrate a special potential for

accelerated growth; to encourage the prudent use and conservation of energy and our natural resources; and to encourage and support development which will assure our communities and their residents of adequate tax bases, community services, job opportunities, and good housing in well-balanced neighborhoods in socially, economically, and physically attractive living environments.

(As amended Pub. L. 95-128, title VI, § 601(a)(2)-(5), Oct. 12, 1977, 91 Stat. 1143.)

AMENDMENTS

1977—Pub. L. 95-128 substituted "national urban policy" for "national urban growth policy", encouraged prudent use and conservation of energy, and provided for the assurance of the residents of the communities, and of good housing.

SHORT TITLE

Section 701(a) of Pub. L. 91-609, as amended Pub. L. 95-128, title VI, § 601(a)(1), Oct. 12, 1977, 91 Stat. 1142, provided that: "This title [title VII of Pub. L. 91-609 which enacted this chapter, amended sections 1453, 1460, and 1492, of this title, sections 371 and 1464 of Title 12, Banks and Banking, and section 461 of Title 40, Public Buildings, Property, and Works, and enacted provisions set out as notes under section 1453 of this title] may be cited as the 'National Urban Policy and New Community Development Act of 1970'."

PART A—DEVELOPMENT OF A NATIONAL URBAN POLICY

§ 4502. Congressional findings and declaration of policy

(a) The Congress finds that rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created an imbalance between the Nation's needs and resources and seriously threaten our physical and social environment, and the financial viability of our cities, and that the economic and social development of the Nation, the proper conservation of our energy and other natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population, economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development and redevelopment which adversely affect the environment and wastefully use energy and other natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve energy and other natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban development and redevelopment and shall provide a framework for development of interstate, State, and local urban policy.

(d) The Congress further declares that the national urban policy should—

[*See main edition for text of (1) and (2)*]

(3) encourage patterns of development and redevelopment which minimize disparities among States, regions, and cities;

[*See main edition for text of (4) to (7)*]

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban development and redevelopment, encourage the prudent use of energy and other natural resources, and protect of[1] the physical environment.

(As amended Pub. L. 95-128, title VI, § 601(b), Oct. 12, 1977, 91 Stat. 1143.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 601(b)(1), substituted "rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created" for "the rapid growth of urban population and uneven expansion of urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities, has created" and included the threat to "social" environment and the financial viability of our cities, and conservation of "energy".

Subsec. (b). Pub. L. 95-128, § 601(b)(2), included findings respecting costly urban redevelopment and wasteful use of energy and struck out "growth" from the phrase "national urban growth policy".

Subsec. (c). Pub. L. 95-128, § 601(b)(3), included conservation of "energy", struck out "growth" from phrase "nation urban growth policy" in first sentence and substituted in second sentence "urban development and redevelopment" for "urban growth" and "urban policy" for "growth and stabilization policy".

Subsec. (d). Pub. L. 95-128, § 601(b)(4) to (6), struck out "growth" preceding "policy" in introductory text; substituted in par. (3) "encourage patterns of development and redevelopment which minimize" for "help reverse trends of migration and physical growth which reinforce"; and in par. (8) substituted "urban development and redevelopment" for "urban growth and stabilization" and "protect" for "the protection" and required the national urban policy to "encourage" prudent use of resources, including "energy".

§ 4503. National Urban Policy Report

(a) Transmittal to Congress; contents

The President shall transmit to the Congress during February 1978, and during February of every even-numbered year thereafter, a Report on National Urban Policy which shall contribute to the formulation of such a policy, and in addition shall include—

[1] So in amendatory text. Probably should read "protect the physical environment".

(1) information, statistics, and significant trends relating to the pattern of urban development for the preceding two years;

(2) a summary of significant problems facing the United States as a result of urban trends and developments affecting the well-being of urban areas;

(3) an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average;

(4) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the national urban policy;

(5) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(6) a review of State, local, and private policies, plans, and programs relevant to such policy;

(7) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(8) recommendations for programs and policies for carrying out such policy, including such legislation and administrative actions as may be deemed necessary and desirable.

(b) Supplementary reports

The President may transmit from time to time to the Congress supplementary reports on urban policy which shall include such supplementary and revised recommendations as may be appropriate.

(c) Advisory board

To assist in the preparation of the National Urban Policy Report and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban areas and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports.

(As amended Pub. L. 95-128, title VI, § 601(c), Oct. 12, 1977, 91 Stat. 1143.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 601(c)(1), added preceding par. (1) provisions respecting transmittal of a Report on National Urban Policy to the Congress and struck out prior similar provisions which required the President to utilize the capacity of his office, adequately organized and staffed for the purpose, through an identified unit of the Domestic Council, and of the departments and agencies within the executive branch to collect, analyze, and evaluate such statistics, data, and other information (including demographic, economic, social, land use, environmental, and governmental information) as would enable the President to transmit to the Congress during the month of February 1972 and every other year thereafter a Report on Urban Growth for the preceding two calendar years.

Subsec. (a)(1) to (8). Pub. L. 95-128, § 601(c)(2) to (6), in amending the paragraphs, provided as follows:

par. (1), substituted ", statistics, and significant trends relating to the pattern of urban development for the preceding two years" for "and statistics, describing characteristics of urban growth and stabilization and identifying significant trends and developments";

par. (2), struck out "growth" following "urban" and inserted end text "affecting the well-being of urban areas";

par. (3), added provisions respecting problems experienced by cities with a growth rate equalling or exceeding the national average and redesignated former par. (3) as (4);

par. (4), redesignated former par. (3) as (4), and as so redesignated struck out "growth" preceding "policy", and redesignated former par. (4) as (5); and

pars. (5) to (8), redesignated former pars. (4) to (7) as (5) to (8), respectively.

Subsec. (b). Pub. L. 95-128, § 601(c)(7), substituted "urban policy" for "urban growth".

Subsec. (c). Pub. L. 95-128, § 601(c)(8), substituted "National Urban Policy Report" and "urban areas" for "Report on Urban Growth" and "urban growth".

PART B—DEVELOPMENT OF NEW COMMUNITIES

§ 4521. Agreements for financial aid

(a) Restrictions on financial aid

The Secretary may, until October 1, 1978, enter into agreements with private new community developers and State land development agencies to provide financial assistance, in amounts, not exceeding two-thirds of the estimated cost of such work, for planning new community development programs, including planning work which he determines will have special value in assuring that new community development programs (1) will be fully responsive to social or environmental problems related to the public purposes of new community development, or (2) will adequately provide for, or encourage the use of, new or advanced technology in support of program objectives.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-128, title II, § 208, Oct. 12, 1977, 91 Stat. 1130.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128 substituted "October 1, 1978" for "October 1, 1977".

CHAPTER 60—COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAM

SUBCHAPTER III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—GRANTS TO STATES

§ 4572. State allotment

(a) Minimum allotment for any one state; determination of incidence of alcohol abuse within States

(1) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 4571 of this title among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State

(other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall, except as provided in paragraph (2), be less than the greater of (A) $200,000, or (B) the amount of such State's allotment for the fiscal year ending June 30, 1976, unless the amount appropriated under section 4571 of this title for allotments for the fiscal year ending June 30, 1976, was greater than the amount appropriated for the fiscal year for which the minimum allotment determination is being made, in which case the minimum allotment prescribed by this clause shall be an amount which bears the same ratio to the amount allotted for the fiscal year ending June 30, 1976, as the amount appropriated for the fiscal year for which the minimum allotment determination is being made bears to the amount appropriated for the fiscal year ending June 30, 1976. In determining the extent of a State's need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, the Secretary shall (within 180 days after July 26, 1976) by regulation establish a methodology to assess and determine the incidence and prevalence of alcohol abuse within the States.

(2) If the amount appropriated under section 4571 of this title for any fiscal year is less than the amount required to make for such fiscal year the minimum allotment prescribed by paragraph (1) to each State with an approved State plan, the minimum allotment for such fiscal year for a State with an approved State plan shall be an amount which bears the same ratio to the minimum allotment prescribed by paragraph (1) for such State as the amount appropriated under section 4571 of this title for such fiscal year bears to the amount of appropriations required to make the minimum allotment, as so prescribed, to each State with an approved State plan.

[*See main edition for text of* (*b*) *to* (*d*)]

(As amended Pub. L. 95-83, title III, § 311(b), Aug. 1, 1977, 91 Stat. 397.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 311(b), substituted provisions of cls. (A) and (B) respecting amount of minimum allotment for any one State for prior provision prescribing minimum allotment of $200,000 for any fiscal year; designated existing provisions as par. (1); and added par. (2).

§ 4573. State plans

(a) Submission; required contents

Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

[*See main edition for text of* (*1*) *to* (*16*)]

Each State plan shall pertain to the twelve-month period of the State fiscal year which commences in the calendar year in which the plan is submitted and shall be submitted not later than July 31 of each calendar year.

(b) Approval of plan and modification

The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. A State plan submitted under subsection (a) may also contain provisions relating to drug abuse or mental health. The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall establish procedures by which the Institute shall review each State plan submitted under subsection (a) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted or not later than sixty days after the plan is received by the Institute, whichever is later.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-83, title III, § 311(a)(1), (2), Aug. 1, 1977, 91 Stat. 397.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-83, § 311(a)(1), added requirement that each plan to pertain to the twelve-month period of the State fiscal year which commences in the calendar year in which the plan is submitted and to be submitted not later than July 31 of each calendar year.

Subsec. (b). Pub. L. 95-83, § 311(a)(2), added provision permitting the plan to contain provisions relating to drug abuse or mental health and required establishment of review procedures, and prescribed period for completion of review.

PART B—IMPLEMENTATION AND PROJECT GRANTS AND CONTRACTS

§ 4577. Grants and contracts for the prevention and treatment of alcohol abuse and alcoholism

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Applications; coordination in State; evaluation of projects and programs; review and recommendation by Council; criteria for approval

[*See main edition for text of* (*1*) *and* (*2*)(*A*)]

(B)(i) Except as provided in clause (ii), each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for its review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council.

[*See main edition for text of* (*ii*) *and* (*3*) *to* (*5*)]

(As amended Pub. L. 95-83, title III, § 311(c), Aug. 1, 1977, 91 Stat. 398.)

AMENDMENTS

1977—Subsec. (c)(2)(B)(i). Pub. L. 95-83 substituted "its" for "his".

CHAPTER 62—INTERGOVERNMENTAL PERSONNEL PROGRAM

SUBCHAPTER II—STRENGTHENING STATE AND LOCAL PERSONNEL ADMINISTRATION

§ 4728. Transfer of functions

REFERENCES IN TEXT

Section 2019(e)(2) of title 7, referred to in subsec. (a)(1), is a reference to section 2019 of title 7 prior to the general amendment of that section made by Pub. L. 95-113, § 1301, Sept. 29, 1977, 91 Stat. 969. Provisions formerly contained in section 2019(e)(2) of title 7 are now covered by section 2020(e)(6) of title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300m-1 of this title; title 7 section 2020.

CHAPTER 65—NOISE CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4365 of this title; title 16 section 228g.

§ 4905. Noise emission standards for products distributed in commerce

[*See main edition for text of* (a) *and* (b)]

(c) Contents of regulations; appropriate consideration of other standards; participation by interested persons; revision

(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 4904 of this title, is requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1381 et seq.], the Clean Air Act [42 U.S.C. 7401 et seq.], and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) of this section (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

[*See main edition for text of* (2) *and* (3)]

(d) Warranty by manufacturer of conformity of product with regulations; transfer of cost obligation from manufacturer to dealer prohibited

[*See main edition for text of* (1) *and* (2)]

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act [42 U.S.C. 7611].

[*See main edition for text of* (e)]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(1), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see short Title note set out under section 7401 of this title and Tables.

CODIFICATION

Subsecs. (c)(1) and (d)(3) are set out in this Supplement to reflect the redesignation of the Clean Air Act as section 7401 et seq. of this title and section 311 of the Clean Air Act as section 7611 of this title.

CHAPTER 66—DOMESTIC VOLUNTEER SERVICES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6063 of this title; title 20 sections 1077, 1078, 1087dd.

CHAPTER 68—DISASTER RELIEF

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1382a, 3231, 4003, 7704 of this title; title 7 sections 1421, 1427, 1427a, 1961; title 12 section 1715*l*; title 15 section 636; title 23 section 125; title 26 sections 165, 5064, 5708; title 33 section 701s; title 38 section 1820.

SUBCHAPTER III—DISASTER ASSISTANCE ADMINISTRATION

§ 5142. Federal assistance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2014.

SUBCHAPTER IV—FEDERAL DISASTER ASSISTANCE PROGRAMS

§ 5184. Community disaster loans

COMMUNITY EMERGENCY DROUGHT RELIEF

Pub. L. 95-31, title I, May 23, 1977, 91 Stat. 169, provided:

"That this Act be cited as the 'Community Emergency Drought Relief Act of 1977'.

"Sec. 101. (a) Upon the application of any State, political subdivision of a State, Indian tribe, or public or private nonprofit organization, the Secretary of Commerce is authorized to make grants and loans to applicants in drought impacted areas for projects that implement short-term actions to augment community water supplies where there are severe problems due to water shortages. Such assistance may be for the improvement, expansion, or construction of water supplies, and purchase and transportation of water, which in the opinion of the Secretary of Commerce will make a substantial contribution to the relief of an existing or threatened drought condition in a designated area.

"(b) The Secretary of Commerce may designate any area in the United States as an emergency drought impact area if he or she finds that a major and continuing adverse drought condition exists and is expected to continue, and such condition is causing significant hardships on the affected areas.

"(c) Eligible applicants shall be those States or political subdivisions of States with a population of ten thousand or more, Indian tribes, or public or private nonprofit organizations within areas designated pursuant to subsection (b) of this section.

"(d) Projects assisted under this Act shall be only those with respect to which assurances can be given to the satisfaction of the Secretary of Commerce that the work can be completed by April 30, 1978, or within such extended time as the Secretary may approve in exceptional circumstances.

"Sec. 102. Grants hereunder shall be in an amount not to exceed 50 per centum of allowable project costs. Loans shall be for a term not to exceed 40 years at a per annum interest rate of 5 per centum and shall be on such terms and conditions as the Secretary of Commerce shall determine. In determining the amount of a grant assistance for any project, the Secretary of Commerce may take into consideration such factors as are established by regulation and are consistent with the purposes of this Act.

"Sec. 103. In extending assistance under this Act the Secretary shall take into consideration the relative needs of applicant areas for the projects for which assistance is requested, and the appropriateness of the project for relieving the conditions intended to be alleviated by this Act.

"Sec. 104. The Secretary of Commerce shall have such powers and authorities under this Act as are vested in the Secretary by sections 701 and 708 of the Public Works and Economic Development Act of 1965, as amended [sections 3211 and 3218 of this title], with respect to that Act [section 3121 et seq. of this title].

"Sec. 105. The National Environmental Protection Act of 1969, as amended [section 4321 et seq. of this title], shall be implemented to the fullest extent consistent with but subject to the time constraints imposed by this Act, and the Secretary of Commerce when making the final determination regarding an application for assistance hereunder shall give consideration to the environmental consequences determined within that period.

"Sec. 106. (a) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1977, $225,000,000 of which sum $150,000,000 is to be for the loan program herein, including administration thereof, and $75,000,000 of which is to be used for the grant program herein, including administration thereof, and such additional amounts for the fiscal year ending September 30, 1978, as may be reasonably needed for administrative expenses in monitoring and closing out the program authorized by the Act. Funds authorized by this Act shall be obligated by December 31, 1977.

"(b) Funds available to the Secretary for this Act shall be available for expenditure for drought impact projects conducted heretofore by eligible applicants during fiscal year 1977 if such projects are found to be compatible with the broad purposes of this Act."

SUBCHAPTER V—MISCELLANEOUS

§ 5202. Authorization of appropriations

Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this chapter through the close of September 30, 1980.

(As amended Pub. L. 95-51, § 1, June 20, 1977, 91 Stat. 233.)

References in Text

The amendment made by section 501, referred to in text, means the enactment of subchapter VIII (§ 3231 et seq.) of chapter 38 of this title section 501 of Pub. L. 93-288.

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Amendments

1977—Pub. L. 95-51 substituted "September 30, 1980" for "June 30, 1977".

CHAPTER 69—COMMUNITY DEVELOPMENT

Sec.
5318. Urban development action grants [New].
(a) Grants to severely distressed cities and urban counties for prescribed purposes.
(b) Criteria and standards; regulations.
(c) Applications; contents; citizen participation plan; public hearings.
(d) Application requirements of section 5304(a) for section 5306 allocation and distribution of funds applicable to this section.
(e) Selection criteria.
(f) Activities of urban development action program.
(g) Consultation of Secretary with other Federal agencies and coordination of assistance.
(h) Annual reviews and audits; administrative action appropriate to findings; recapture or deduction of expended funds prohibited.
(i) Relocation.
(j) Allocation of funds based upon balance among program objectives.
(k) Minimum percentage of funds for use of certain noncentral cities.

§ 5301. Congressional findings and declaration of purpose

[*See main edition for text of* (a) *and* (b)]

(c) Decent housing, suitable living environment, and economic opportunities for persons of low and moderate income; community development activities which may be supported by Federal assistance

The primary objective of this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objec-

tive, the Federal assistance provided in this chapter is for the support of community development activities which are directed toward the following specific objectives—

[*See main edition for text of (1) to (5)*]

(6) the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income;

(7) the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons; and

(8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base.

It is the intent of Congress that the Federal assistance made available under this chapter not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

(d) Consolidation of complex and overlapping Federal assistance programs into consistent system of Federal aid

It is also the purpose of this chapter to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which—

[*See main edition for text of (1) to (3)*]

(4) fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner by Federal agencies and programs, as well as by communities.

(As amended Pub. L. 95-128, title I, § 101, Oct. 12, 1977, 91 Stat. 1111.)

AMENDMENTS

1977—Subsec. (c)(8). Pub. L. 95-128, § 101(a), added par. (8).

Subsec. (d)(4). Pub. L. 95-128, § 101(b), provided that the development activities be undertaken by Federal agencies and programs as well as by communities.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 114 of Pub. L. 95-128 provided that: "The amendments made by this title [enacting section 5318 of this title, amending sections 1452b, 5301 to 5308, and 5313 of this title and section 461 of Title 40, Public Buildings, Property, and Works, and enacting provisions set out as a note under section 5313 of this title] shall become effective October 1, 1977".

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-128 provided that: "This Act [which enacted sections 3540 and 5318 of this title and sections 2901 to 2905 of Title 12, Banks and Banking, amended sections 1437c, 1437f, 1437g, 1439, 1452b, 1471, 1472, 1476, 1479, 1483 to 1485, 1487, 1490a, 1490c, 1490h, 3533, 4003, 4013, 4026, 4056, 4103 to 4106, 4127, 4501 to 4503, 4521, 5301 to 5308, 5313, 5403, and 5409 of this title, sections 355, 1430, 1454, 1464, 1701q, 1701x, 1701z-1, 1703, 1706e, 1709, 1709-1, 1715h, 1715k to 1715m, 1715w, 1715y, 1715z, 1715z-1, 1715z-3, 1715z-7, 1715z-9, 1715z-10, 1717, 1723a, 1723e, 1748h-1, 1748h-2, 1749bb, and 1749aaa of Title 12, and section 461 of Title 40, Public Buildings, Property, and Works, and enacting provisions set out as notes under sections 1421b, 1437d, 1490h, 4501, 5301, and 5313 of this title and sections 1715z-1, 1723e of Title 12] may be cited as the 'Housing and Community Development Act of 1977'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5305 of this title.

§ 5302. General provisions

(a) Definitions

As used in this chapter—

(1) The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands. Such term also includes a State or a local public body or agency (as defined in section 4512 of this title), community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 4513 of this title or title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.].

[*See main edition for text of (2) and (3)*]

(4) The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more; except that any city which has been classified as a metropolitan city under clause (B) of this paragraph shall continue to be so classified until the decennial census indicates that the population of such city is less than fifty thousand.

(5) The term "city" means (A) any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to these associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census, which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential commu-

nity development and housing assistance activities.

(6) The term "urban county" means any county within a metropolitan area which (A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and either (B) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities. or (C) has a population in excess of one hundred thousand, a population density of at least five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of Census.

[*See main edition for text of* (7) *to* (9)]

(10) The term "age of housing" means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(11) The term "extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities.

(12) The term "housing stock" means the number of existing housing units based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(13) The term "adjustment factor" means the ratio between the age of housing in the metropolitan city or urban county and the predicted age of housing in such city or county.

(14) The term "predicted age of housing" means the arithmetic product of the housing stock in the metropolitan city or urban county multiplied times the ratio between the age of housing in all metropolitan areas and the housing stock in all metropolitan areas.

(15) The term "adjusted age of housing" means the arithmetic product of the age of housing in the metropolitan city or urban county multiplied times the adjustment factor.

(16) The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512) [31 U.S.C. 1221 et seq.].

(17) The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this chapter.

(18) The term "program period" means the period beginning January 1, 1975, and ending June 30, 1975, and the period covering each fiscal year thereafter.

(19) The term "Community Development Program" means a program described in section 5304(a)(2) of this title.

(20) The term "Secretary" means the Secretary of Housing and Urban Development.

[*See main edition for text of* (b) *and* (c)]

(d) Local governments, exclusion from urban county population; notice

An urban county designated under subsection (a)(6)(B)(i) of this section shall notify, prior to a date set by the Secretary for each year, all incorporated units of general local government the populations of which are included in the population of such urban county for purposes of this section of their opportunity to exclude their population from such urban county. Any unit of general local government which has not elected to have its population so excluded shall have its population included within the population of such urban county for purposes of this section until it, on its own initiative, elects to exclude its population by notifying the urban county on or before a date set by the Secretary.

(As amended Pub. L. 95-128, title I, § 102, Oct. 12, 1977, 91 Stat. 1111.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(16), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which enacted section 2004b of this title, and sections 13a, 450 to 450n, 455, 456, 457, and 458 to 458e of Title 25, Indians, amended section 4762 of this title, section 3371 of Title 5, Government Organization and Employees, and section 456 of Title 50, Appendix, War and National Defense, and enacted provisions set out as notes under sections 450, 455, and 457 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The State and Local Fiscal Assistance Act of 1972, referred to in subsec. (a)(16), is title I of Pub. L. 92-512, Oct. 20, 1972, 86 Stat. 919, as amended, which is classified principally to chapter 24 (§ 1221 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of Title 31 and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-128, § 102(a)(1), excluded from the term "unit of general local government" Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos of the United States.

Subsec. (a)(4). Pub. L. 95-128, § 102(a)(2), clarified the term "metropolitan city" to continue the classification of any city classified as a metropolitan city under cl. (B) as such city until the decennial census in-

dicates the population of such city is less than fifty thousand.

Subsec. (a)(5). Pub. L. 95-128, § 102(a)(3), limited the meaning of the term "city" to a town or township without any incorporated places within its boundaries which have entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

Subsec. (a)(6). Pub. L. 95-128, § 102(a)(4), inserted "either" preceding "(B)" and added cl. (C).

Subsec. (a)(10) to (16). Pub. L. 95-128, § 102(a)(6), added pars. (10) to (16). Former pars. (10) to (13) redesignated (17) to (20).

Subsec. (a)(17) to (20). Pub. L. 95-128, § 102(a)(5), redesignated former pars. (10) to (13) as (17) to (20).

Subsec. (d). Pub. L. 95-128, § 102(b), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

§ 5303. Grants for State, tribal, and local Community Development Programs

(a) Authority of Secretary; authorization of appropriations; appropriation of nonappropriated funds; allocation of appropriated amounts

(1) The Secretary is authorized to make grants to States and units of general local government and Indian tribes to help finance Community Development Programs approved in accordance with the provisions of this chapter. There are authorized to be appropriated for these purposes not to exceed $3,500,000,000 for the fiscal year 1978, not to exceed $3,650,000,000 for the fiscal year 1979, and not to exceed $3,800,000,000 for the fiscal year 1980. Any amount authorized for any fiscal year under this section but not appropriated for such year may be appropriated for any succeeding fiscal year.

(2) Of the amounts approved in appropriations Acts pursuant to paragraph (1), $50,000,000 for each of the fiscal years 1975 and 1976, $200,000,000 for the fiscal year 1977 (not more than 50 per centum of which amount may be used under section 5306(d)(1) of this title), $350,000,000 for the fiscal year 1978 (of which not more than $175,000,000 may be used under such section), $265,000,000 for the fiscal year 1979 (of which not more than $25,000,000 may be used under such section), and $250,000,000 for the fiscal year 1980 (none of which may be used under such section) shall be added to the amount available for allocation under section 5306(d) of this title and shall not be subject to the provisions of section 5307 of this title.

(b) Additional authorization of appropriations for general local government units requiring supplemental assistance; requirement of prior appropriation of a minimum amount

In addition to the amounts made available under subsection (a) of this section, and for the purpose of facilitating an orderly transition to the program authorized under this chapter, there are authorized to be appropriated not to exceed $50,000,000 for each of the fiscal years 1975 and 1976, and not to exceed $100,000,000 for each of the fiscal years 1977, 1978, 1979, and 1980, for grants under this chapter for the financial settlement and, to the extent feasible, the completion of projects and programs assisted under the categorical programs terminated in section 5316(a) of this title, primarily urban renewal projects assisted under the Housing Act of 1949 [42 U.S.C. 1441 et seq.], to units of general local government which require supplemental assistance which cannot be provided through the operation of the allocation provisions of section 5306 of this title. No funds shall be made available under this subsection (1) for fiscal year 1978 unless the amount appropriated under subsection (a) of this section for fiscal year 1978 is at least $3,500,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsection (a) of this section for fiscal year 1979 is at least $3,650,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsection (a) of this section for fiscal year 1980 is at least $3,800,000,000.

(c) Supplemental urban development action grant assistance; requirement of prior appropriation of a minimum amount

There is authorized to be appropriated a sum not in excess of $400,000,000 for supplemental grant assistance under section 5318 of this title for each of the fiscal years 1978, 1979, and 1980, except that no funds shall be made available for such purpose (1) for fiscal year 1978 unless the amount appropriated under subsections (a) and (b) of this section for fiscal year 1978 is at least $3,600,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsections (a) and (b) of this section for fiscal year 1979 is at least $3,750,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsections (a) and (b) of this section for fiscal year 1980 is at least $3,900,000,000.

(d) Availability of unexpended appropriations

Sums appropriated pursuant to this section shall remain available until expended.

(e) Submission to Congress of requests for additional appropriations

To assure program continuity and orderly planning, the Secretary shall submit to the Congress timely requests for additional authorizations for the fiscal years 1978 through 1980.

(As amended Pub. L. 95-128, title I, § 103, Oct. 12, 1977, 91 Stat. 1113.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (b), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-128, § 103(a), (b), authorized: grants to Indian tribes, appropriation authorizations for fiscal years 1978 through 1980, and unappropriated funds to be appropriated for any succeeding fiscal year; and deleted provisions which: prescribed $8,400,000,000 as the limitation on amount of obligations incurred, authorized appropriation of $2,500,000,000 for fiscal year 1975, increased to $5,450,000,000 and $8,400,000,000 for fiscal years 1976 and 1977 for liquidation of obligations, and made

available for liquidation of contracts entered into hereunder appropriations for grants under title VII of the Housing Act of 1961 and sections 3102 and 3103 of this title, and supplemental grants under title I of the Demonstration Cities and Metropolitan Development Act of 1966, not otherwise obligated prior to Jan. 1, 1975.

Subsec. (a)(2). Pub. L. 95-128, § 103(c), inserted use of additional money authorization provisions for fiscal years 1978 through 1980.

Subsec. (b). Pub. L. 95-128, § 103(d), authorized appropriations for fiscal years 1978 through 1980, substituted "for the financial settlement and, to the extent feasible, the completion of projects and programs assisted under the categorical programs terminated in section 5316(a) of this title, primarily urban renewal projects assisted under the Housing Act of 1949, to units of general local government which require supplemental assistance which cannot be provided" for "to units of general local government having urgent community development needs which cannot be met" and inserted provision respecting requirement of prior appropriation of a minimum amount.

Subsec. (c). Pub. L. 95-128, § 103(e), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 95-128, § 103(e), redesignated former subsecs. (c) and (d) as (d) and (e).

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

Section Referred to in Other Sections

This section is referred to in sections 5306, 5307, 5312, 5316, 5318 of this title.

§ 5304. Procedures for award of grants

(a) Application; contents; statements of assurances

No grant may be made pursuant to section 5306 or section 5318 of this title unless an application shall have been submitted to the Secretary in which the applicant—

(1) sets forth a summary of a three-year community development plan which identifies community development and housing needs, demonstrates a comprehensive strategy for meeting those needs, and specifies both short- and long-term community development objectives which have been developed in accordance with areawide development planning and national urban growth policies;

(2) formulates a program which (A) includes the activities to be undertaken to meet its community development needs and objectives, together with the estimated costs and general location of such activities, (B) indicates resources other than those provided under this chapter which are expected to be made available toward meeting its identified needs, including activities designed to revitalize neighborhoods for the benefit of low- and moderate-income persons, and objectives, and (C) takes into account appropriate environmental factors;

(3) describes a program designed to—

(A) eliminate or prevent slums, blight, and deterioration where such conditions or needs exist;

(B) provide improved community facilities and public improvements, including the provision of supporting health, social, and similar services where necessary and appropriate and in a manner to insure fully opportunity for participation by, and benefits to, the handicapped; and

(C) improve conditions for low- and moderate-income persons residing in or expected to reside in the community and foster neighborhood development in order to induce higher-income persons to remain in, or return to, the community;

(4) submits a housing assistance plan which—

(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, and persons displaced or to be displaced) residing in or expected to reside in the community and identifies housing stock which is in a deteriorated condition,

(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low- and moderate-income, and

(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects;

[*See main edition for text of* (5)]

(6) provides satisfactory assurances that, prior to submission of its application, it has (A) prepared and followed a written citizen participation plan which provides citizens an opportunity to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low- and moderate-income, provides for timely responses to the proposals submitted, and schedules hearings at times and locations which permit broad participation; (B) provided citizens with adequate information con-

cerning the amount of funds available for proposed community development activities and housing activities, the range of activities that may be undertaken, and other important requirements; (C) held public hearings to obtain the views of citizens on community development and housing needs; and (D) provided citizens with an opportunity to submit comments concerning the community development performance of the applicant; but nothing in this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.

(b) Additional requirements of application; certifications to Secretary; waiver of required Program provisions

[*See main edition for text of (1)*]

(2) Any grant under this chapter shall be made only on condition that the applicant certify to the satisfaction of the Secretary that its Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The Secretary may also approve an application describing activities which the applicant certifies and the Secretary determines are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.

(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) of this section if (A) the application for assistance is in behalf of a locality having a population of less than 25,000 according to the most recent data compiled by the Bureau of the Census which is located either (i) outside a standard metropolitan statistical area, or (ii) inside such an area but outside an "urbanized area" as defined by the Bureau of the Census (or as such definition is modified by the Secretary for purposes of this chapter), (B) the application does not involve a comprehensive community development program, as determined by the Secretary, and (C) the Secretary determines that, having regard to the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this chapter.

[*See main edition for text of (4)*]

(c) Approval of application

The Secretary shall approve an application for an amount which does not exceed the amount determined in accordance with section 5306(a) of this title unless—

[*See main edition for text of (1) and (2)*]

(3) the Secretary determines that the application does not comply with the requirements of this chapter, with specific regard to the primary purposes of principally benefiting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency, or other applicable law or proposes activities which are ineligible under this chapter.

(d) Submission of annual performance report by grantee to Secretary; contents; annual review and audit by Secretary of program implementation; adjustments in amount of annual grants

Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each grantee shall submit to the Secretary a performance report concerning the activities carried out pursuant to this chapter, together with an assessment by the grantee of the relationship of those activities to the objectives of this chapter and the needs and objectives identified in the grantee's statement submitted pursuant to subsection (a) of this section. The performance report shall include any citizen comments submitted pursuant to subsection (a)(6)(D) of this section and the Secretary shall consider such comments, together with the views of other citizens and such other information as may be available, in carrying out the provisions of this subsection. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out a program substantially as described in its application, whether that program conformed to the requirements of this chapter and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved Community Development Program. The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with his findings pursuant to this subsection. With respect to grants made pursuant to sections 5306(d)(2) and 5306(f)(1)(B) of this title, the Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits, except that funds already expended on eligible activities under this chapter shall not be recaptured or deducted from future grants made to the recipient.

(e) Submission of application for review and comment by areawide agency under procedures established by President pursuant to applicable statutes; State participation in selection process for funding grants

No grant may be made under this chapter unless the application therefor has been submitted for review and comment to an areawide agency under procedures established by the President pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3331 et seq.] and title IV of the Intergovernmental Cooperation Act of 1968 [42 U.S.C. 4231 et seq.]. In addition, the Secretary may provide an opportunity for the State, in which a grant is to be made to a unit of general local government under section 5306(d)(2) or (f)(1)(B) of this title, to participate in the selection process for funding such grants. Such participation may include, as determined practicable by the Secretary, the incorporation of State growth and resource co-

ordination policies in funding decisions on such grants, or such other arrangements, excluding administration of the grants referred to in the preceding sentence, as the Secretary deems appropriate.

[*See main edition for text of (f) to (h)*]

(i) Payments; revolving loan fund: establishment in private financial institution for rehabilitation activities; standards for payments: criteria; agreements: review and approval

(1) The Secretary shall, in making funds available to the recipients of grants under this chapter, permit any such recipient to receive funds, in one payment, in an amount not to exceed the total amount designated in the recipient's application, and approved by the Secretary pursuant to this section, for use by the recipient for establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities that are part of the recipient's community development program. The Secretary may, as a condition of making such payment, require that the revolving loan fund be utilized for the making of loans to finance rehabilitation activities in a manner consistent with this chapter. Rehabilitation activities authorized under this section shall begin within forty-five days after the Secretary has made such payment.

(2) The Secretary shall establish standards for such cash payments which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include, at a minimum, one or more of the following elements, or such other criteria as determined by the Secretary—

(A) leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;

(B) commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;

(C) provision of administrative services in support of the rehabilitation program by the participating lending institutions; and

(D) interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program.

At the time of application, the Secretary shall review and approve all agreements with lending institutions which receive funds for community rehabilitation programs. Such approval shall be made on a case-by-case basis, and upon a determination by the Secretary that the agreement with the lending institution meets minimum benefit standards as listed in this paragraph.

(As amended Pub. L. 95-128, title I, §§ 104, 110(a), Oct. 12, 1977, 91 Stat. 1114, 1125.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 110(a), inserted reference to section 5318 of this title.

Subsec. (a)(1). Pub. L. 95-128, § 104(a)(1), inserted "and housing" preceding "needs".

Subsec. (a)(2)(B). Pub. L. 95-128, § 104(a)(2), included provision activities designed to revitalize neighborhoods for benefit of low- and moderate-income persons.

Subsec. (a)(3). Pub. L. 95-128, § 104(a)(3), inserted subpar. (B) requirement for a program designed to insure fully opportunity for participation by, and benefits to, the handicapped and added subpar. (C).

Subsec. (a)(4). Pub. L. 95-128, § 104(a)(4), inserted subpar. (A) provision for identification of housing stock in a deteriorated condition; inserted in subpar. (B) "lower-income" preceding "persons" and added cl. (iii); and inserted subpar. (C)(i) provision respecting reclamation of housing stock where feasible through use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood.

Subsec. (a)(6). Pub. L. 95-128, § 104(a)(5), added cl. (A), redesignated former cls. (A) and (B) as (B) and (C), and redesignated former cl. (C) as (D) and substituted therein "with an opportunity to submit comments concerning the community development performance of the applicant; but nothing in this paragraph" for "an adequate opportunity to participate in the development of the application; but no part of this paragraph".

Subsec. (b)(2). Pub. L. 95-128, § 104(b), substituted in first sentence "low- and moderate-income" for "low- or moderate-income" and in second sentence following "urgency" the clause "because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available" for "as specifically described in the application".

Subsec. (b)(3). Pub. L. 95-128, § 104(c), added cl. (B), struck out former cl. "(B) the application relates to the first community development activity to be carried out by such locality with assistance under this chapter", redesignated former cl. (D) as (C) and struck out former cl. "(C) the assistance requested is for a single development activity under this chapter of a type eligible for assistance under title VII of the Housing Act of 1961 or title VII of the Housing and Urban Development Act of 1965".

Subsec. (c)(3). Pub. L. 95-128, § 104(d), inserted ", with specific regard to the primary purposes of principally benefiting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency," preceding "or other applicable law".

Subsec. (d). Pub. L. 95-128, § 104(e), inserted requirement for inclusion of citizen comments in the performance reports and Secretary's consideration of the comments and added provision for adjustment of grants under section 5306(d)(2) and (f)(1)(B) of this title without recapture of expended funds or deduction from future grants.

Subsec. (e). Pub. L. 95-128, § 104(f), added provisions respecting State participation in selection process for funding the grants.

Subsec. (i). Pub. L. 95-128, § 104(g), added subsec. (i).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

PROTECTION OF WETLANDS

For provisions relating to the protection of wetlands, see Ex. Ord. No. 11990, May 24, 1977, 42 F.R. 26961, set out as a note under section 4321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437c, 1439, 5302, 5305, 5306, 5316, 5318 of this title.

§ 5305. Activities of Community Development Programs eligible for assistance; reimbursement of Secretary for administrative services connected with rehabilitation of properties

(a) A Community Development Program assisted under this chapter shall consist of activities which assist in carrying out a comprehensive strategy for meeting the community development and housing needs and priorities identified pursuant to section 5304 of this title, giving primary attention to activities benefiting low- and moderate-income persons and neighborhoods, aiding in the prevention or elimination of slums or blight, or meeting other community development needs having a particular urgency. These activities may include only—

[*See main edition for text of (1) to (3)*]

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties);

[*See main edition for text of (5) to (7)*]

(8) provision of public services not otherwise available in areas where other activities assisted under this chapter are being carried out in a concentrated manner, if such services are determined to be necessary or appropriate to support such other activities and if assistance in providing or securing such services under other applicable Federal laws or programs has been applied for and denied or not made available within a reasonable period of time, and if such services are directed toward (A) improving the community's public services and facilities, including those concerned with the employment, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and (B) coordinating public and private development programs, and if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of application submission for funds which are to be made available under this chapter, and which are to be utilized for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the applicant;

[*See main edition for text of (9) to (11)*]

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this chapter may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities; and

(14) activities which are carried out by public or private non-profit entities when such activities are necessary or appropriate to meeting the needs and objectives of the community development plan described in section 5304(a)(1) of this title, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities, site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning; and

(15) grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized under section 681(d) of title 15 to carry out a neighborhood revitalization or community economic development project in furtherance of the objectives of section 5301(c) of this title.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-128, title I, § 105, Oct. 12, 1977, 91 Stat. 1116.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 105(a), inserted in the introductory text description of activities covered including the words "These activities".

Subsec. (a)(4). Pub. L. 95-128, § 105(b), substituted parenthetical text "(including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties)" for "(including interim assistance and financing rehabilitation of privately owned properties when incidental to other activities)".

Subsec. (a)(8). Pub. L. 95-128, § 105(c), deleted from cl. (A) "economic development," preceding "crime prevention" and authorized the program to provide public services only if such services have not been provided by the unit of general local government during any part of the twelve-month period preceding the date of application submission for funds to be made available

under this chapter, and to be utilized for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the applicant.

Subsec. (a)(14), (15). Pub. L. 95-128, § 105(d), added pars. (14) and (15).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5304, 5318 of this title.

§ 5306. Allocation and distribution of funds

(a) Amount allocated to metropolitan areas; annual grants for metropolitan cities and urban counties; limitations

Of the amount approved in an appropriation Act under section 5303(a) of this title for grants in any year (excluding the amount provided for use in accordance with sections 5303(a)(2) and 5307 of this title), 80 per centum shall be allocated by the Secretary to metropolitan areas. Except as provided in subsections (c) and (e) of this section, each metropolitan city and urban county shall, subject to the provisions of section 5304 of this title and except as otherwise specifically authorized, be entitled to annual grants from such allocation in an aggregate amount not exceeding the greater of its basic amount computed pursuant to paragraph (1) or (2) of subsection (b) of this section or its hold-harmless amount computed pursuant to subsection (g) of this section.

(b) Amount allocated to metropolitan cities and urban counties; computation

(1) The Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that city and the population of all metropolitan areas;

(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

(iii) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the extent of growth lag in that city and the extent of growth lag in all metropolitan cities;

(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

(iii) the age of housing in that city and the age of housing in all metropolitan areas.

(2) The Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that urban county and the population of all metropolitan areas;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the extent of growth lag in that urban county and the extent of growth lag in all metropolitan cities and urban counties;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

(iii) the age of housing in that urban county and the age of housing in all metropolitan areas.

(3) In determining the average of ratios under paragraphs (1)(A) and (2)(A), the ratio involving the extent of poverty shall be counted twice, and each of the other ratios shall be counted once; and in determining the average of ratios under paragraphs (1)(B) and (2)(B), the ratio involving the extent of growth lag shall be counted once, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(4) In computing amounts or exclusions under this section with respect to any urban county there shall be excluded units of general local government located in the county (A) which are entitled to hold-harmless grants pursuant to subsection (h) of this section, or (B) the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection.

(c) Adjustment of amounts for metropolitan cities and urban counties; time periods for adjustments

With respect to funds approved for distribution to a metropolitan city or urban county under this section during fiscal years 1975, 1976, and 1977, the basic grant amount of such city or county as computed under subsection (b) of this section shall be adjusted only for such funds approved for distribution in fiscal years 1975, 1976, and 1977 as provided in this subsection if the amount so computed for the first such year exceeds the city's or county's hold-harmless amount as determined under subsection (g) of this section. Such adjustment shall be made so that—

[*See main edition for text of (1) to (3)*]

(d) Additional allocations of amounts allocated to metropolitan areas and added amounts for grants to metropolitan cities, urban counties, specified units of general local government, and States; computations; pro rata reduction; multiyear commitment; annual grant; limitation

(1) Any portion of the amount allocated to metropolitan areas under the first sentence of subsection (a) of this section which remains

after the allocation of grants to metropolitan cities and urban counties in accordance with subsection (b) of this section and any amounts added in accordance with the provisions of section 5303(a)(2) of this title shall be allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h) of this section, and, second, in accordance with the provisions of paragraph (2).

(2) Any portion of such amounts which remains afters applying the provisions of paragraph (1) shall be utilized by the Secretary for grants to units of general local government within metropolitan areas (other than metropolitan cities and urban counties), and States for use within metropolitan areas, allocating for the metropolitan areas of each State the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this paragraph as either—

(A) the average of the ratios between—

(i) the population of the metropolitan areas in that State and the population of the metropolitan areas of all States;

(ii) the extent of poverty in the metropolitan areas in that State and the extent of poverty in the metropolitan areas of all States; and

(iii) the extent of housing overcrowding in the metropolitan areas in that State and the extent of housing overcrowding in the metropolitan areas of all States; or

(B) the average of the ratios between—

(i) the age of housing in the metropolitan areas in that State and the age of housing in the metropolitan areas of all States;

(ii) the extent of poverty in the metropolitan areas in that State and the extent of poverty in the metropolitan areas of all States; and

(iii) the population of the metropolitan areas in that State and the population of the metropolitan areas of all States.

In determining the average of the ratios under subparagraph (A), the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the metropolitan areas in each State under such paragraph so that the metropolitan areas in each State will receive an amount which represents the same percentage of the total amount available under such paragraph as the percentage which the metropolitan areas of the same State would have received under such paragraph if the total amount available under that paragraph had equaled the total amount which was allocated under that paragraph.

(3) If the Secretary approves a grant under paragraph (2) to a unit of general local government which has a comprehensive community development program with provision for lower-income housing, the Secretary may make a multiyear commitment, up to three years, to any such unit of general local government for specified grant amounts, subject to the availability of appropriations. In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2) of this section, before making new commitments. In making grants under paragraph (2), the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified, and shall consider such factors as the unit's engaging in economic redevelopment activities, past performance of the unit in community development activities, prior and present funding levels under this chapter, the function of the unit as a regional center of economic development and activity, impact on the unit's growth of national policy or direct Federal program decisions, the potential for having increased employment within such unit as a result of community development activity, the physical and economic deterioration within the unit, the age of housing stock and the extent of poverty within the unit, the extent to which the unit's activity or program of activities is necessary to alleviate a serious threat to health or safety, the capacity of the unit to carry out such programs, and any other factors deemed, by the Secretary, to be relevant to carrying out the purposes of this chapter. The Secretary shall make grants under paragraph (2) in such a manner as to insure that a reasonable proportion of grants is available to applicants which are not seeking funding for comprehensive community development programs. The Secretary may accept and approve commitments for annual grants based on comprehensive community development programs commencing in future fiscal years subject only to the availability of appropriations. In computing amounts under paragraph (2), there shall be excluded metropolitan cities, urban counties, Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) of this section.

(e) Reallocation of amounts allocated to metropolitan cities, urban counties, and metropolitan areas for use by States, metropolitan cities, urban counties, or specified units of general local government; prerequisites; review by Secretary

Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not applied for during a program period or which are not approved by the Secretary, and any other amounts allocated to a metropolitan area which the Secretary determines, on the basis of the

applications and other evidence available, are not likely to be fully obligated within a reasonable time, shall be reallocated for use by States, metropolitan cities, urban counties, or units of general local government, first, in any metropolitan area in the same State, and second, in any other metropolitan area. The Secretary shall review determinations under this subsection from time to time as appropriate with a view of assuring maximum use of all available funds in the period for which such funds were appropriated.

(f) Amounts allocated to units of general local government of metropolitan areas and States; computations; pro rata reduction; multiyear commitment; annual grant; limitation; reallocation of amounts to nonmetropolitan areas of other States; prerequisites; review by Secretary

(1) Of the amount approved in an appropriation Act under section 5303(a) of this title for grants in any year (excluding the amount provided for use in accordance with sections 5303(a)(2) and 5307 of this title), 20 per centum shall be allocated by the Secretary—

(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h) of this section; and

(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be utilized by the Secretary for grants to units of general local government outside of metropolitan areas and States for use outside the metropolitan areas, allocating for the nonmetropolitan areas of each State the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either—

(i) the average of the ratios between—

(I) the population of the nonmetropolitan areas in that State and the population of the nonmetropolitan areas of all States;

(II) the extent of poverty in the nonmetropolitan areas in that State and the extent of poverty in the nonmetropolitan areas of all States; and

(III) the extent of housing overcrowding in the nonmetropolitan areas in that State and the extent of housing overcrowding in the nonmetropolitan areas of all States; or

(ii) the average of the ratios between—

(I) the age of housing in the nonmetropolitan areas in that State and the age of housing in the nonmetropolitan areas of all States;

(II) the extent of poverty in the nonmetropolitan areas in that State and the extent of poverty in the nonmetropolitan areas of all States; and

(III) the population of the nonmetropolitan areas in that State and the population of the nonmetropolitan areas of all States.

In determining the average of the ratios under clause (i) of subparagraph (B) the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under clause (ii) of subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under subparagraph (B) and the total of the amounts available under such subparagraph, make a pro rata reduction of each amount allocated to the nonmetropolitan areas in each State under such subparagraph so that the nonmetropolitan areas in each State will receive an amount which represents the same percentage of the total amount available under such subparagraph as the percentage which the nonmetropolitan areas of the same State would have received under such subparagraph if the total amount available under such subparagraph had equaled the total amount which was allocated under such subparagraph.

(2) If the Secretary approves a grant under paragraph (1)(B) to a unit of general local government which has a comprehensive community development program with provision for lower-income housing, the Secretary may make a multiyear commitment, up to three years, to any such unit of general local government for specified grant amounts, subject to the availability of appropriations. In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2) of this section, before making new commitments. In making grants under paragraph (1)(B), the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified, and shall consider such factors as the unit's engaging in economic redevelopment activities, past performance of the unit in community development activities, prior and present funding levels under this chapter, the function of the unit as a regional center of economic development and activity, impact on the unit's growth of national policy or direct Federal program decisions, the potential for having increased employment within such unit as a result of community development activity, the physical and economic deterioration within the unit, the age of housing stock and the extent of poverty within the unit, the extent to which the unit's activity or program activities is necessary to alleviate a serious threat to health or safety, the capacity of the unit to carry out such programs, and any other factors deemed, by the Secretary, to be relevant to carrying out the purposes of this chapter. The Secretary shall make grants under paragraph (1)(B) in such a manner as to insure that a reasonable proportion of grants is available to applicants which are not seeking funding for comprehensive community development programs. The Secretary may accept and

approve commitments for annual grants based on comprehensive community development programs commencing in future fiscal years subject only to the availability of appropriations. In computing amounts under paragraph (1)(B), three[1] shall be excluded units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) of this section and Indian tribes.

(3) Any amounts allocated to a unit of general local government under paragraph (1) which are not applied for during a program period or which are not approved by the Secretary, and any amounts allocated to the nonmetropolitan areas of a State under paragraph (1)(B) which the Secretary determines, on the basis of applications and other evidence available, are not likely to be fully obligated within a reasonable time, shall be reallocated as soon as practicable to the nonmetropolitan areas of other States. The Secretary shall review determinations under this paragraph from time to time with a view to assuring maximum use of all available funds in the program period for which such funds were appropriated.

(g) Hold-harmless amount of metropolitan cities and urban counties; factors determining computation of sum

[*See main edition for text of (1)*]

(2) During the fiscal years 1975, 1976, and 1977, the hold-harmless amount of any metropolitan city or urban county shall be the full amount computed for the city or county in accordance with paragraph (1). In the fiscal years 1978, 1979, and 1980, if such amount is greater than the basic grant amount of the metropolitan city or urban county for that year, as computed under subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section, it shall be reduced so that—

(i) in the fiscal year 1978, the excess of the hold-harmless amount over the basic grant amount, as computed under subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section, shall equal two-thirds of the difference between the amount computed under paragraph (1) and the basic grant amount for such year,

(ii) in the fiscal year 1979, the excess of the hold-harmless amount over the basic grant amount, as computed under subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section, shall equal one-third of the difference between the amount computed under paragraph (1) and the basic grant amount for such year, and

(iii) in the fiscal year 1980, there shall be no excess of the hold-harmless amount over the basic grant amount.

[*See main edition for text of (h)*]

(i) Percentages excluded from data in computation of hold-harmless grants for units of general local government for fiscal years 1978 and 1979

In excluding the data of units of general local government which are entitled to a hold-harmless grant pursuant to subsection (h) of this section from the computations described in subsections (b)(4), (d), and (f) of this section, the Secretary shall exclude only two-thirds of such data for the fiscal year 1978 and one-third of such data for the fiscal year 1979.

(j) Waiver of eligibility by units of general local government for hold-harmless grants; computations unaffected by waiver

Any unit of general local government eligible for a hold-harmless grant pursuant to subsection (h) of this section may, by such date as the Secretary shall determine, irrevocably waive its eligibility for a hold-harmless grant for a single year under such subsection. In the case of such a waiver the unit of general local government shall not be excluded from the computations described in subsections (b)(4), (d), and (f) of this section.

[*See main edition for text of (k)*]

(l) Report to Congress: adequacy of funds allocation formula; "impaction" defined

Not later than September 30, 1978, the Secretary shall report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under this chapter, with specific analysis and recommendation as to the feasibility of utilizing factors of impaction (such as adjusted age of housing and extent of poverty) as a measurement consideration, and the feasibility of utilizing a single formula based on the current factors or others, including regional or area differences in income and cost of living. As used in this subsection, the term "impaction" means the intensity, measured in terms of absolute numbers and proportions of each needs factor.

(m) Pro rata reduction of basic grant and hold-harmless entitlement amounts and other funds to meet deficiency of funds

In the event that the total amount available for distribution under this section in fiscal year 1978 or fiscal year 1979 is insufficient to meet all basic grant and hold-harmless entitlement needs as provided pursuant to this section, and funds are not otherwise appropriated to meet such deficiency, the Secretary shall meet the deficiency through a pro rata reduction of (1) all basic grant and hold-harmless entitlement amounts, and (2) funds available under subsection (d)(2) of this section (including amounts provided for use under section 5303(a)(2) of this title) and subsection (f)(1)(B) of this section.

(As amended Pub. L. 95-128, title I, § 106, Oct. 12, 1977, 91 Stat. 1117.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d)(3), (f)(2), and (*l*), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 106(a), substituted in second sentence reference to pars. "(1) or (2)" for pars. "(2) or (3)" of subsec. (b) of this section.

[1] So in original. Probably should be "there".

Subsec. (b)(1). Pub. L. 95-128, § 106(b), added par. (1), and struck out former par. (1) provisions stating that "The Secretary shall determine the amount to be allocated to all metropolitan cities which shall be an amount that bears the same ratio to the allocation for all metropolitan areas as the average of the ratios between—

"(A) the population of all metropolitan cities and the population of all metropolitan areas;

"(B) the extent of poverty in all metropolitan cities and the extent of poverty in all metropolitan areas; and

"(C) the extent of housing overcrowding in all metropolitan cities and the extent of housing overcrowding in all metropolitan areas.", now incorporated in this paragraph.

Subsec. (b)(2). Pub. L. 95-128, § 106(b), added par. (2) and struck out former par. (2) provisions declaring that "From the amount allocated to all metropolitan cities the Secretary shall determine for each metropolitan city a basic grant amount which shall equal an amount that bears the same ratio to the allocation for all metropolitan cities as the average of the ratios between—

"(A) the population of that city and the population of all metropolitan cities;

"(B) the extent of poverty in that city and the extent of poverty in all metropolitan cities; and

"(C) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan cities.", now incorporated in subsec. (b)(1) of this section.

Subsec. (b)(3). Pub. L. 95-128, § 106(b), added par. (3) and struck out former par. (3) provisions for determination of basic grant amount of each urban county, now covered in subsec. (b)(2) of this section and formerly providing that "The Secretary shall determine the basic grant amount of each urban county by—

"(A) calculating the total amount that would have been allocated to metropolitan cities and urban counties together under paragraph (1) of this subsection if data pertaining to the population, extent of poverty, and extent of housing overcrowding in all urban counties were included in the numerator of each of the fractions described in such paragraph; and

"(B) determining for each county the amount which bears the same ratio to the total amount calculated under subparagraph (A) of this paragraph as the average of the ratios between—

"(i) the population of that urban county and the population of all metropolitan cities and urban counties;

"(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan cities and urban counties; and

"(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan cities and urban counties."

Subsec. (b)(4). Pub. L. 95-128, § 106(b), (c), struck out former par. "(4) In determining the average of ratios under paragraphs (1), (2), and (3), the ratio involving the extent of poverty shall be counted twice.", now incorporated in par. (3), redesignated former par. (5) as (4) and substituted "are entitled to" for "receive".

Subsec. (b)(5). Pub. L. 95-128, § 106(c)(1), redesignated former par. (5) as (4).

Subsec. (c). Pub. L. 95-128, § 106(d), in the first sentence, substituted "With respect to funds approved for distribution to a metropolitan city or urban county under this section during fiscal years 1975, 1976, and 1977" for "During the first three years for which funds are approved for distribution to a metropolitan city or urban county under this section" and inserted following "adjusted" the phrase "only for such funds approved for distribution in fiscal years 1975, 1976, and 1977".

Subsec. (d). Pub. L. 95-128, § 106(e), incorporated existing introductory text and provisions of former par. (1) in provisions now designated par. (1); added par. (2), incorporating provisions of former par. (2) respecting additional allocations by the Secretary "for grants to units of general local government (other than metropolitan cities and urban counties) and States for use in metropolitan areas, allocating for each such metropolitan area an amount which bears the same ratio to the allocation for all metropolitan areas available under this paragraph as the average of the ratios between—

"(A) the population of that metropolitan area and the population of all metropolitan areas,

"(B) the extent of poverty in that metropolitan area and the extent of poverty in all metropolitan areas, and

"(C) the extent of housing overcrowding in that metropolitan area and the extent of housing overcrowding in all metropolitan areas." and declaring that "In determining the average of ratios under paragraph (2), the ratio involving the extent of poverty shall be counted twice"; deleted end clause providing that "in computing amounts under such paragraph there shall be excluded any metropolitan cities, urban counties, and units of general local government which receive hold-harmless grants pursuant to subsection (h) of this section", now constituting last sentence of par. (3); and added par. (3) provisions.

Subsec. (e). Pub. L. 95-128, § 106(f), in first sentence, substituted "within a reasonable time" for "during such program period" and struck out "during the same period" following "shall be reallocated".

Subsec. (f)(1). Pub. L. 95-128, § 106(g)(1), inserted in subpar. (B) "any portion of such amount which remains after applying the provisions of subparagraph (A) shall be utilized by the Secretary" following "second," and "the greater of" preceding "an amount"; reenacted existing provisions in cl. (i); added cl. (ii); added provision respecting determination of average of ratios under cl. (ii) of subpar. (B) and provision for pro rata reduction, to compensate for the discrepancy between the total of the amounts to be allocated under subpar. (B) and the total of the amounts available under such subparagraph, of each amount allocated to the nonmetropolitan areas in each State under such subparagraph; and deleted end clause providing that in computing amounts under such subpar. (B) there shall be excluded units of general local government which receive hold-harmless grants pursuant to subsec. (h) of this section, now constituting end sentence of subsec. (f)(2) of this section.

Subsec. (f)(2). Pub. L. 95-128, § 106(g)(1), (2), added par. (2) and redesignated former par. (2) as (3).

Subsec. (f)(3). Pub. L. 95-128, § 106(g)(2)-(4), redesignated former par. (2) as (3), substituted therein "within a reasonable time" for "during such period", and deleted "during the same period" following "as soon as practicable".

Subsec. (g)(2). Pub. L. 95-128, § 106(h), substituted reference to "subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section" for "subsection (b)(2) or (3) of this section" and inserted in cls. (i) and (ii) preceding "shall" the phrase ", as computed under subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section,".

Subsec. (i). Pub. L. 95-128, § 106(i), struck out "population, poverty, and housing overcrowding" preceding "data" and substituted "are entitled to" for "receive" and reference to subsec. (b)(4) for (b)(5) of this section.

Subsec. (j). Pub. L. 95-128, § 106(j), substituted "by such date as the Secretary shall determine" for "not later than thirty days prior to the beginning of any program period" and reference to subsec. (b)(4) for (b)(5) of this section and inserted "for a hold-harmless grant for a single year" following "eligibility".

Subsec. (*l*). Pub. L. 95-128, § 106(k), substituted provisions for submission of a report to Congress not later

than Sept. 30, 1978, respecting adequacy of funds allocation formula and defining "impaction" for prior requirement of a report to Congress not later than Mar. 31, 1977, setting forth recommendations to further purposes and policies of this chapter, for modifying or expanding the provisions of this section relating to the method of funding and the allocation of funds and the determination of basic grant entitlement, and for application of the provisions in the further distribution of funds under this chapter and the conduct of a study by the Secretary respecting manner of distributing funds under this chapter in accordance with community development needs, objectives, and capacities, measured to the maximum extent feasible by objective standards.

Subsec. (m). Pub. L. 95-128, § 106(*l*), added subsec. (m).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5307, 5308, 5312, 5316, 5318 of this title.

§ 5307. Special discretionary fund

(a) Amount; purposes for expenditure from fund

Of the total amount of authority to enter into contracts approved in appropriation Acts under section 5303(a)(1) of this title for each of the fiscal years 1975, 1976, 1977, 1978, 1979, and 1980, an amount equal to 3 per centum thereof shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants (in addition to any other grants which may be made under this chapter to the same entities or for the same purposes)—

[*See main edition for text of (1) to (4)*]

(5) to States, units of general local government, and Indian tribes for the purpose of meeting emergency community development needs caused by federally recognized disasters;

(6) to States and units of general local government where the Secretary deems it necessary to correct inequities resulting from the allocation provisions of section 5306 of this title;

(7) to Indian tribes; and

(8) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this chapter. The Secretary may also provide such technical assistance under this paragraph directly or through contracts.

(b) Limitation on amount reserved for emergency disaster needs

Not more than 15 per centum of the total amount reserved and set aside in the special discretionary fund under subsection (a) of this section for each year may be used for grants to meet emergency disaster needs under subsection (a)(5) of this section.

[*See main edition for text of (c)*]

(d) Indian tribal eligibility for grant dependent upon conformity of program with prescribed constitutional rights and privilege of habeas corpus

No grant may be made to an Indian tribe unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284 [25 U.S.C. 1301 et seq.]. The Secretary may waive, in connection with such grants, the provisions of section 5309 and section 5310 of this title.

(As amended Pub. L. 95-128, title I, § 107, Oct. 12, 1977, 91 Stat. 1123.)

REFERENCES IN TEXT

Title II of Public Law 90-284, referred to in subsec. (d), is title II of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 77, which is classified generally to subchapter I (§ 1301 et seq.) of chapter 15 of Title 25, Indians.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 107(1), (2), extended the provisions to fiscal years 1978 through 1980 and increased the rate to 3 from 2 per centum.

Subsec. (a)(5). Pub. L. 95-128, § 107(3), provided for grants to Indian tribes.

Subsec. (a)(7), (8). Pub. L. 95-128, § 107(4), added pars. (7) and (8).

Subsec. (b). Pub. L. 95-128, § 107(5), substituted "15 per centum" for "one-fourth".

Subsec. (d). Pub. L. 95-128, § 107(6), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5308, 5316 of this title.

§ 5308. Guarantee and commitment to guarantee loans for acquisition of property

(a) Authority of Secretary; issuance of obligations by units of general local government or designated public agencies; form, denomination, maturity, and conditions of notes or other obligations

The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee the notes or other obligations issued by units of general local government, or by public agencies designated by such units of general local government, for the purposes of financing acquisition of real property or the rehabilitation of real property owned by the unit of general local government (including such related expenses as the Secretary may permit by regulation). Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary.

(b) Prerequisites

No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes

or obligations guaranteed under this section would thereby exceed an amount equal to three times the amount of the grant approval for the issuer pursuant to section 5306 of this title.

(c) Payment of principal, interest and costs

Notwithstanding any other provision of this chapter, grants allocated to an issuer pursuant to this chapter (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

(d) Repayment contract; security

To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to—

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(2) pledge any grant approved or for which the issuer may become eligible under this chapter; and

(3) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this chapter or dispositions proceeds from the sale of land or rehabilitated property.

(e) Pledged grants for repayments

The Secretary is authorized, notwithstanding any other provision of this chapter, to apply grants pledged pursuant to subsection (d)(2) of this section to any repayments due the United States as a result of such guarantees.

(f) Full faith and credit of United States pledged for payment; conclusiveness and validity of guarantee

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(g) Issuance of obligations by Secretary to Secretary of Treasury to satisfy authorized guarantee obligations; establishment of maturities and rates of interest and purchase of obligations by Secretary of Treasury

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which such securities may be issued under such Act are extended to include the purchases of the Secretary's obligations hereunder.

(h) Federal taxation of guaranteed obligations; grants to borrowing unit or agency of taxable obligations for net interest costs, etc.; limitation on amount of grant

Obligations guaranteed under this section, shall be subject to Federal taxation as provided in subsection (i) of this section. The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of the issuing unit of general local government or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing unit or agency of such obligations.

(i) Inclusion within gross income for purpose of chapter 1 of title 26 of interest paid on taxable obligations

With respect to any obligation issued by a unit of general local government or designated agency which is guaranteed pursuant to this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of title 26.

(j) Outstanding obligations; limitation

Notwithstanding any other provision of this section, the total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) of this section shall not at any time exceed $3,500,000,000 or such higher amount as may be authorized to be appropriated for sections 5306 and 5307 of this title for any fiscal year.

(Pub. L. 93-383, title I, § 108(a)-(h), (j), (k), Aug. 22, 1974, 88 Stat. 647-649, as amended Pub. L. 95-128, title I, § 108, Oct. 12, 1977, 91 Stat. 1123.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) to (e), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

CODIFICATION

Subsecs. (f) and (g), originally enacted as subsecs. (c) and (d), were redesignated (f) and (g) by section 108(2) of Pub. L. 95-128. Subsec. (f) of Pub. L. 93-383, § 108, as originally enacted which amended section 711(22) of Title 31, Money and Finance, was redesignated subsec. (i) of Pub. L. 93-383, § 108, by Pub. L. 95-128, § 108(2). Subsec. (j) of Pub. L. 93-383, § 108, originally enacted as (g) of Pub. L. 93-383, § 108, and redesignated (j) by Pub. L. 95-128, § 108(2), and subsec. (k), added by section 108(7) of Pub. L. 95-128, have been designated as subsecs. (i) and (j) of this section for purposes of codification. See also 1977 Amendment notes below.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-128, § 108(1), (3), reenacted substantially existing provisions and also deleted "or assembly" following "acquisition of", included rehabilitation of real property owned by the unit of general local government, added provision respecting form, denominations, maturities, and conditions of notes or other obligations to be guaranteed, and deleted after parenthetical text "to serve or be used in carrying out activities which are eligible for assistance under section 5305 of this title and are identified in the application under section 5304 of this title, and with respect to which grants have been or are to be made under section 5303 of this title, but no such guarantee shall be issued in behalf of any agency designed to benefit, in or by the flotation of any issue, a private individual or corporation".

Subsec. (b). Pub. L. 95-128, § 108(1), (3), added subsec. (b) and deleted prior provisions respecting: reservation and withholding of prescribed amount for purpose of paying guaranteed obligations, subject to being increased because of any unanticipated, major reduction in estimated disposition proceeds; pledge of full faith and credit of unit of general local government to the Secretary for repayment of any amount required to be paid by the United States pursuant to any guarantee; and pledge of repayment of proceeds of grants in event of failure of repayment as hereinbefore provided.

Subsecs. (c) to (e). Pub. L. 95-128, § 108(3), added subsecs. (c) to (e). Former subsecs. (c) to (e) redesignated (f) to (h).

Subsecs. (f), (g). Pub. L. 95-128, § 108(2), redesignated former subsecs. (c) and (d) as (f) and (g).

Subsec. (h). Pub. L. 95-128, § 108(2), (4), (5), redesignated former subsec. (e) as (h) and substituted in first sentence "subsection (i)" for "subsection (f)"; substituted in first sentence "shall" for "may, at the option of the issuing unit of general local government or designated agency,"; and in second sentence "The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts," for "In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants".

Subsec. (i). Pub. L. 95-128, § 108(2), (6), redesignated former subsec. (f) as (i) and substituted "is guaranteed pursuant to" for "such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of".

Subsec. (j). Pub. L. 95-128, § 108(7), added subsec. (j).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

§ 5309. Nondiscrimination in programs and activities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5307 of this title.

§ 5310. Labor standards; rate of wages; exceptions; employment powers

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5307 of this title.

§ 5313. Reporting requirements

(a) Not later than 180 days after the close of each fiscal year in which assistance under this chapter is furnished, the Secretary shall submit to the Congress a report which shall contain—

(1) a descripton of the progress made in accomplishing the objectives of this chapter;

(2) a summary of the use of such funds as approved by the Secretary during the preceding fiscal year; and

(3) with respect to the action grants authorized under section 5318 of this title, a listing of each unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-128, title I, § 109, Oct. 12, 1977, 91 Stat. 1124.)

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-128 added par. (3).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

STUDY ON SMALL CITIES; REPORT TO PRESIDENT AND CONGRESS; ALTERNATIVE FORMULAE

Section 113 of Pub. L. 95-128 provided that: "The Secretary of Housing and Urban Development shall conduct a study and, not later than one year after the date of enactment of this Act [Oct. 12, 1977], report to the President and to the Congress recommendations on the formation of a national policy on the developmental needs of small cities. In carrying out such study, the Secretary shall (1) take steps to improve the data available about small cities, (2) suggest means of reducing the duplication in government programs in jurisdictions which affect small cities, and (3) consider all of the relevant differences and similarities between small and large cities, particularly in the area of housing, growth, development patterns, infrastructure, education, energy needs, and social development. In addition, the Secretary shall include in the report alternative verifiable formulae to be used in the distribution of discretionary balance funds available for allocation to small cities under title I of the Housing and Community Development Act of 1974 [this chapter]."

§ 5316. Transition provisions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5303 of this title.

§ 5318. Urban development action grants

(a) Grants to severely distressed cities and urban counties for prescribed purposes

In order to promote the primary objective of this chapter of the development of viable urban communities, of the total amount of authority approved in appropriation Acts under section 5303(c) of this title, the Secretary is authorized to make urban development action grants to severely distressed cities and urban counties to help alleviate physical and economic deterioration through reclamation of neighborhoods having excessive housing abandonment or deterioration, and through community revitaliza-

tion in areas with population outmigration or a stagnating or declining tax base. Grants made under this section shall be for the support of severely distressed cities and urban counties that require increased public and private assistance in addition to the assistance otherwise made available under this chapter and other forms of Federal assistance.

(b) Criteria and standards; regulations

Urban development action grants shall be made only to cities and urban counties that have, in the determination of the Secretary, demonstrated results in providing housing for persons of low- and moderate-income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of physical and economic distress of cities and urban counties for eligibility for such grants, which standards shall take into account factors such as the age and condition of housing stock, including residential abandonment; average income; population outmigration; and stagnating or declining tax base.

(c) Applications; contents; citizen participation plan; public hearings

Applications for assistance under this section shall—

(1) include documentation of eligibility for grants in accordance with the standards described in subsection (b) of this section;

(2) describe a concentrated urban development action program setting forth a comprehensive action plan and strategy to alleviate physical and economic distress through systematic change, which program shall be consistent with the community development program described in section 5304(a)(2) of this title and the housing assistance plan described in section 5304(a)(4) of this title, and, where it exists and is in effect, the overall economic development plan as provided for in section 3142(b)(10) of this title, but only in the event and after such time as such plans are required by law or administrative action to be consistent with community development programs. Such program shall be developed as to take advantage of unique opportunities to attract private investment, stimulate investment in restoration of deteriorated or abandoned housing stock, or solve critical problems resulting from population outmigration or a stagnating or declining tax base;

(3) include the activities to be undertaken in the urban development action program, together with the estimated costs and general locations of such activities;

(4) indicate public and private resources which are expected to be made available toward achieving the action plan and strategy described in paragraph (2); and

(5) provide satisfactory assurances that, prior to submission of its application, it has (A) prepared and followed a written citizen participation plan, which plan provides the opportunity for citizens to participate in the development of the application, with special attention to measures to encourage the statement of views and the submission of proposals by low- and moderate-income people and residents of blighted neighborhoods, and to scheduling hearings at times and locations which are convenient to all citizens, (B) provided citizens with adequate information concerning the amount of funds available for proposed activities under this section, the range of activities that may be undertaken, and other important program requirements, and (C) held public hearings to obtain the views of citizens on needs which may be dealt with under this section.

(d) Application requirements of section 5304(a) for section 5306 allocation and distribution of funds applicable to this section

To the extent that the application requirements of section 5304(a)(4) of this title have been satisfied in connection with a grant made pursuant to section 5306 of this title, such requirements shall be determined to have been met for purposes of this section.

(e) Selection criteria

In establishing criteria for the purpose of making grants under this section the Secretary shall establish selection criteria which must include (1) as the primary criterion, the comparative degree of physical and economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (2) other factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration in cities and urban counties; and (3) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; impact of the proposed urban development action program on the special problems of low- and moderate-income persons and minorities; extent of financial participation by other public or by private entities; extent of assistance to be made available by the State; impact on the physical, fiscal, or economic deterioration of the city or urban county; extent to which the program describes activities representing a special or unique opportunity to meet local priority needs or the objectives of this chapter; and feasibility of accomplishing the program in a timely fashion within the grant amount available.

(f) Activities of urban development action program

In addition to activities authorized under section 5305(a) of this title, an urban development action program may also include such additional community development and neighborhood development and conservation activities as the Secretary may determine to be consistent with the purposes of this section.

(g) Consultation of Secretary with other Federal agencies and coordination of assistance

No assistance shall be provided for business loans or industrial development under this section unless the Secretary shall first consult

with and coordinate such assistance with other Federal agencies which make available funds for similar activities.

(h) Annual reviews and audits; administrative action appropriate to findings; recapture or deduction of expended funds prohibited

The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants pursuant to this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of such review and audits, except that funds already expended on eligible activities under this chapter shall not be recaptured or deducted from future grants made to the recipient.

(i) Relocation

No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the unemployment or economic base of the area from which such industrial or commercial plant or facility is to be relocated.

(j) Allocation of funds based upon balance among program objectives

The Secretary shall allocate the amounts available for grants under this section in a manner which achieves a reasonable balance among programs that are designed primarily (1) to restore seriously deteriorated neighborhoods, (2) to reclaim for industrial purposes underutilized real property, and (3) to renew commercial employment centers.

(k) Minimum percentage of funds for use of certain noncentral cities

Not less than 25 per centum of the funds made available for grants under this section shall be used for cities under fifty thousand population which are not central cities of a standard metropolitan statistical area.

(Pub. L. 93-383, title I, § 119, as added Pub. L. 95-128, title I, § 110(b), Oct. 12, 1977, 91 Stat. 1125.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (e), and (h), in the original read "this title" meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which enacted this chapter and amended sections 1452b, 1453, and 3311 of this title, section 1701u of Title 12, Banks and Banking, and section 711 of Title 31, Money and Finance.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5313 of this title.

CHAPTER 70—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

§ 5403. Construction and safety standards

[*See main edition for text of (a) to (g)*]

(h) Coverage; exclusion

The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

(1) designed only for erection or installation on a site-built permanent foundation;

(2) not designed to be moved once so erected or installed;

(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act [12 U.S.C. 1707 et seq.]; and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

(As amended Pub. L. 95-128, title IX, § 902(a), Oct. 12, 1977, 91 Stat. 1149.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (h)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the National Housing Act is classified principally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-128 added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5409 of this title

§ 5409. Prohibited acts; exemptions

(a) No person shall—

[*See main edition for text of (1) to (3)*]

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a mobile home conforms to all applicable Federal mobile home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(5) fail to comply with a final order issued by the Secretary under this chapter; or

(6) issue a certification pursuant to subsection (h) of section 5403 of this title, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

[*See main edition for text of (b) and (c)*]

(As amended Pub. L. 95-128, title IX, § 902(b), Oct. 12, 1977, 91 Stat. 1149.)

AMENDMENTS

1977—Subsec. (a)(6). Pub. L. 95-128 added par. (6).

CHAPTER 71—SOLAR ENERGY

SUBCHAPTER I—HEATING AND COOLING

§ 5516. Transfer of Functions

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

§ 5553. Solar Energy Coordination and Management Project

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 this title.

§ 5557. Solar Energy Information Data Bank

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CHAPTER 72—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SUBCHAPTER II—PROGRAMS AND OFFICES

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

SUBPART II—SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

Sec.
5639. Confidentiality of program records [New].

SUBCHAPTER III—RUNAWAY YOUTH

PART C—REORGANIZATION

5741. Reorganization plan; submittal to Congress; required contents [New].

PART D—AUTHORIZATION OF APPROPRIATIONS

5751. Amounts authorized for programs and activities; consultative and coordinating requirements.

SUBCHAPTER I—GENERALLY

§ 5601. Congressional statement of findings

EFFECTIVE DATE OF 1977 AMENDMENT

Section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, § 6(d)(2), Oct. 3, 1977, 91 Stat. 1058, provided that: "Except as otherwise provided by the Juvenile Justice Amendments of 1977, [see Short Title of 1977 Amendments note below], the amendments made by the Juvenile Justice Amendments of 1977 shall take effect on October 1, 1977."

EFFECTIVE DATE

Section 263(a) and (b) of Pub. L. 93-415, as amended by Pub. L. 94-273, § 32(a), Apr. 21, 1976, 90 Stat. 380; Pub. L. 95-115, § 6(d)(1), Oct. 3, 1977, 91 Stat. 1058, provided that:

"(a) Except as provided by subsections (b) and (c) [set out as an Effective Date of 1977 Amendment note above], the foregoing provisions of this Act [enacting subchapters I and II of this chapter and amending section 5108 of Title 5, Government Organization and Employees] shall take effect on the date of enactment of this Act [Sept. 7, 1974].

"(b) Section 204(b)(5) and 204(b)(6) [section 5614(b)(5) and 5614(b)(6) of this title] shall become effective at the close of the thirty-first day of the twelfth calendar month of 1974. Section 204(*l*) [section 5614(*l*) of this title] shall become effective at the close of the thirtieth day of the eleventh month of 1976."

SHORT TITLE OF 1977 AMENDMENTS

Section 1 of Pub. L. 95-115, Oct. 3, 1977, 91 Stat. 1048, provided that: "This Act [which enacted section 5741 of this title, amended section 5316 of Title 5, Government Organization and Employees, sections 4351 and 5038 of Title 18, and sections 3723, 3767, 3811 to 3814, 3821, 3882, 3883, 3888, 3889, 5603, 5611 5612, 5614 to 5618, 5631 to 5635, 5637 to 5639, 5651, 5653 to 5657, 5659 to 5661, 5671, 5672, 5711 to 5713, 5731, and 5751 of this title, repealed sections 3821, 5658, and 5732 of this title, enacted provisions set out as notes under this section and sections 5632, 5633, and 5638 of this title, and amended provisions set out as a note under this section] may be cited as the 'Juvenile Justice Amendments of 1977'."

§ 5603. Definitions

For purposes of this chapter—

[*See main edition for text of (1) and (2)*]

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth to help prevent delinquency;

[*See main edition for text of (4) to (13)*]

(As amended Pub. L. 95-115, § 2, Oct. 3, 1977, 91 Stat. 1048.)

AMENDMENTS

1977—Par. (3). Pub. L. 95-115 substituted "to help prevent delinquency" for "who are in danger of becoming delinquent".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SUBCHAPTER II—PROGRAMS AND OFFICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5751 of this title.

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5638 of this title.

§ 5611. Establishment

(a) Placement within Law Enforcement Assistance Administration, Department of Justice; administration of provisions by Administrator

There is hereby created within the Department of Justice, Law Enforcement Assistance Administration, the Office of Juvenile Justice and Delinquency Prevention (referred to in this chapter as the "Office"). The Administrator shall administer the provisions of this chapter through the Office.

[*See main edition for text of* (*b*)]

(c) Associate Administrator; nomination by President; references to Administrator in other statutory provisions

There shall be at the head of the Office an Associate Administrator who shall be nominated by the President by and with the advice and consent of the Senate. The Associate Administrator may be referred to as the Administrator of the Office of Juvenile Justice and Delinquency Prevention in connection with the performance of his functions as the head of the Office, except that any reference in this chapter to the "Administrator" shall not be construed as a reference to the Associate Administrator.

(d) Powers of Associate Administrator

The Associate Administrator shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration. The Associate Administrator is authorized, subject to the direction of the Administrator, to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under part B and part C of this subchapter. The Administrator may delegate such authority to the Associate Administrator for all grants and contracts from, and applications for, funds made available under this part and funds made available for juvenile justice and delinquency prevention programs under the Omnibus Crime Control and Safe Streets Act of 1968, as amended [42 U.S.C. 3701 et seq.]. The Associate Administrator shall report directly to the Administrator.

(e) Deputy Associate Administrator; appointment; general functions

There shall be in the Office a Deputy Associate Administrator who shall be appointed by the Administrator of the Law Enforcement Assistant Administration. The Deputy Associate Administrator shall perform such functions as the Assistant Administrator from time to time assigns or delegates, and shall act as Assistant Administrator during the absence or disability of the Assistant Administrator or in the event of a vacancy in the Office of the Associate Administrator.

(f) Supervision of National Institute for Juvenile Justice and Delinquency Prevention

There shall be established in the Office a Deputy Associate Administrator who shall be appointed by the Administrator whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established under section 5651 of this title.

(As amended Pub. L. 95-115, § 3(a)(1)-(3)(A), (4), (5), Oct. 3, 1977, 91 Stat. 1048, 1049.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (d), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, as amended, title I of which is classified principally to chapter 46 (§ 3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, § 3(a)(1), added provisions relating to administration of provisions of this chapter.

Subsec. (c). Pub. L. 95-115, § 3(a)(2), (3)(A), added provisions relating to statutory references to the Associate Administrator and substituted "an Associate" for "an Assistant".

Subsec. (d). Pub. L. 95-115, § 3(a)(3)(A), (4), added provisions relating to powers of the Associate Administrator over grants and contracts and provisions relating to reporting requirement and substituted "The Associate Administrator shall exercise" for "The Assistant Administrator shall exercise".

Subsec. (e). Pub. L. 95-115, § 3(a)(3)(A), (5), substituted references to Deputy Associate Administrator and Associate Administrator for references to Deputy Assistant Administrator and Assistant Administrator, respectively, wherever appearing therein.

Subsec. (f). Pub. L. 95-115, § 3(a)(5), substituted "Associate" for "Assistant".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5612. Personnel

[*See main edition for text of (a) and (b)*]

(c) Personnel from other agencies

Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Associate Administrator to assist him in carrying out his functions under this chapter.

[*See main edition for text of (d)*]

(As amended Pub. L. 95-115, § 3(a)(3)(A), Oct. 3, 1977, 91 Stat. 1048.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-115 substituted "Associate" for "Assistant".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5614. Concentration of federal efforts

[*See main edition for text of (a)*]

(b) Duties of Administrator

In carrying out the purposes of this chapter, the Administrator, with the assistance of the Associate Administrator, shall—

[*See main edition for text of (1) to (4)*]

(5) develop annually with the assistance of the Advisory Committee and the Coordinating Council and submit to the President and the Congress, after the first year following October 3, 1977, prior to December 31, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs and a brief but precise comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system, which analysis and evaluation shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs; and

(6) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

[*See main edition for text of (c)*]

(d) First and second annual reports of Administrator; contents

(1) The first annual report submitted to the President and the Congress by the Administrator under subsection (b)(5) of this section shall contain, in addition to information required by subsection (b)(5) of this section, a detailed statement of criteria developed by the Associate Administrator for identifying the characteristics of juvenile delinquency, juvenile delinquency prevention, diversion of youths from the juvenile justice system, and the training, treatment, and rehabilitation of juvenile delinquents.

[*See main edition for text of (2)*]

(e) Third annual report of Administrator; contents

The third such annual report submitted to the President and the Congress by the Administrator under subsection (b)(5) of this section shall contain, in addition to the comprehensive plan required by subsection (b)(5) of this section, a detailed statement of procedures to be used with respect to the submission of juvenile delinquency development statements to the Administrator by Federal agencies under subsection (*l*) of this section. Such statement submitted by the Administrator shall include a description of information, data, and analyses which shall be contained in each such development statement.

(f) Information, reports, studies, and surveys from other agencies

The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this part.

(g) Delegation of functions

The Administrator may delegate any of his functions under this subchapter, to any officer or employee of the Administration.

[*See main edition for text of (h)*]

(i) Transfer of funds to other agencies

The Administrator is authorized to transfer funds appropriated under this subchapter to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Associate Administrator finds to be exceptionally effective or for which he finds there exists exceptional need.

(j) Grants and contracts to other agencies, organizations, institutions, and individuals

The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, organization, institution, or individual to carry out the purposes of this subchapter.

(k) Coordination of functions of Administrator and Secretary of Health, Education, and Welfare

All functions of the Administrator under this subchapter shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and Welfare under subchapter III of this chapter.

(l) Annual juvenile delinquency development statements of other agencies; procedure; contents; review by Administrator

(1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program which meets any criterion developed by the Associate Administrator under subsection (d)(1) of this section to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under subsection (f) of this section.

[*See main edition for text of (2) and (3)*]

(As amended Pub. L. 95-115, § 3(a)(3)(A), (b), Oct. 3, 1977, 91 Stat. 1048, 1049.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-115, § 3(b)(1), in introductory material added requirement for assistance of the Associate Administrator, added par. (5), and redesignated former par. (7) as (6). Former par. (5), relating to an analysis and evaluation of Federal juvenile delinquency programs, and former par. (6), relating to a comprehensive plan for Federal juvenile delinquency programs, were struck out.

Subsec. (d)(1). Pub. L. 95-115, § 3(b)(2), added "Associate" preceding "Administrator for".

Subsec. (e). Pub. L. 95-115, § 3(b)(3), substituted "(5)" for "(6)" in two places.

Subsec. (f). Pub. L. 95-115, § 3(b)(4), added "Federal" following "appropriate authority,".

Subsec. (g). Pub. L. 95-115, § 3(b)(5), substituted "subchapter" for "part, except the making of regulations".

Subsec. (i). Pub. L. 95-115, § 3(a)(3)(A), substituted "Associate" for "Assistant".

Subsec. (j). Pub. L. 95-115, § 3(b)(6), added "organization," following "agency," and substituted "subchapter" for "part".

Subsec. (k). Pub. L. 95-115, § 3(b)(7), substituted "subchapter" for "part" and "subchapter III of this chapter" for "the Juvenile Delinquency Prevention Act".

Subsec. (l)(1). Pub. L. 95-115, § 3(b)(8), added "Associate" preceding "Administrator under".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5615. Joint funding; non-Federal share requirements

Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Associate Administrator finds the program or activity to be exceptionally effective or for which the Associate Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

(As amended Pub. L. 95-115, § 3(c), Oct. 3, 1977, 91 Stat. 1049.)

AMENDMENTS

1977—Pub. L. 95-115 added provisions relating to functions of the Associate Administrator with respect to joint funding.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5616. Coordinating Council on Juvenile Justice and Delinquency Prevention

(a) Establishment; membership

(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Office of Drug Abuse Policy, the Commissioner of the Office of Education, the Director of the ACTION Agency, the Secretary of Housing and Urban Development, or their respective designees, the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Deputy Associate Administrator of the Institute for Juvenile Justice and Delinquency Prevention, and representatives of such other agencies as the President shall designate.

(2) Any individual designated under this section shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved.

(b) Chairman and Vice Chairman

The Attorney General shall serve as Chairman of the Council. The Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) Functions

The function of the Council shall be to coordinate all Federal juvenile delinquency programs. The Council shall make recommendations to the Attorney General and the President at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities. The Council is authorized to review the programs and

practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of section 5633(a)(12)(A) and (13) of this title.

(d) Meetings

The Council shall meet a minimum of four times per year and a description of the activities of the Council shall be included in the annual report required by section 5614(b)(5) of this title.

(e) Appointment of personnel or staff support by Associate Administrator

The Associate Administrator may, with the approval of the Council, appoint such personnel or staff support as he considers necessary to carry out the purposes of this subchapter.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-115, § 3(a)(3)(A), (5), (d), Oct. 3, 1977, 91 Stat. 1048-1050.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-115, § 3(a)(3)(A), (5), (d)(1), added references to the Commissioner of the Office of Education and the Director of the ACTION Agency, and substituted "Associate" for "Assistant" wherever appearing therein.

Subsec. (b). Pub. L. 95-115, § 3(a)(3)(A), substituted "Associate" for "Assistant".

Subsec. (c). Pub. L. 95-115, § 3(d)(2), added provisions relating to review functions of the Council.

Subsec. (d). Pub. L. 95-115, § 3(d)(3), substituted "four" for "six".

Subsec. (e). Pub. L. 95-115, § 3(d)(4), redesignated former par. (3) as entire subsec. and, as so redesignated, added "or staff support" following "personnel" and substituted "Associate Administrator" for "Executive Secretary". Former pars. (1) and (2), which related to the appointment and responsibilities of the Executive Secretary, respectively, were struck out.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5617. National Advisory Committee for Juvenile Justice and Delinquency Prevention

[*See main edition for text of (a) and (b)*]

(c) Regular members; appointment; qualifications

The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs, including youth workers involved with alternative youth programs and persons with special experience and competence in addressing the problem of school violence and vandalism and the problem of learning disabilities. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment, of whom at least three shall have been or shall currently be under the jurisdiction of the juvenile justice system.

(d) Term of office; time of appointment; reappointment; vacancies; quorum

Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be four years. Such members shall be appointed within ninety days after September 7, 1974. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Eleven members of the committee shall constitute a quorum.

(As amended Pub. L. 95-115, § 3(e), Oct. 3, 1977, 91 Stat. 1050.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-115, § 3(e)(1), added provisions requiring members to include youth workers and persons with experience and competence in problems of school violence and vandalism, and learning disabilities, and requiring at least three members to, at any time, be in the jurisdiction of the juvenile justice system.

Subsec. (d). Pub. L. 95-115, § 3(e)(2), added provisions relating to quorum requirements.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5618. Duties of Advisory Committee

[*See main edition for text of (a)*]

(b) Recommendations

The Advisory Committee shall make recommendations to the Associate Administrator, the President, and the Congress at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(c) Subcommittee for advice on particular functions

The Chairman shall designate a subcommittee of members of the Advisory Committee to advise the Associate Administrator on particular functions or aspects of the work of the Office.

(d) Subcommittee to serve on Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention

The Chairman shall designate a subcommittee of not less than five members of the Committee to serve, together with the Director of the National Institute of Corrections, as members of an Advisory Committee for the National Institute for Juvenile Justice and Delinquency

Prevention to perform the functions set forth in section 5655 of this title.

(e) Subcommittee to serve as Advisory Committee to Associate Administrator on Standards for Juvenile Justice

The Chairman shall designate a subcommittee of not less than five members of the Committee to serve as an Advisory Committee to the Associate Administrator on Standards for Juvenile Justice to perform the functions set forth in section 5657 of this title.

(f) Request of Associate Administrator for staff and other support

The Chairman, with the approval of the Committee, shall request of the Associate Administrator such staff and other support as may be necessary to carry out the duties of the Advisory Committee.

(g) Duty of Associate Administrator to provide staff and other support

The Associate Administrator shall provide such staff and other support as may be necessary to perform the duties of the Advisory Committee.

(As amended Pub. L. 95-115, § 3(a)(3)(B), (f), Oct. 3, 1977, 91 Stat. 1048, 1050.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-115, § 3(a)(3)(B), (f)(1), added "Associate" preceding "Administrator" and references to the President and Congress.

Subsec. (c). Pub. L. 95-115, § 3(f)(2), added "Associate" preceding "Administrator" and substituted "shall" for "may".

Subsec. (d). Pub. L. 95-115, § 3(f)(3), added "not less than" following "subcommittee of".

Subsec. (e). Pub. L. 95-115, § 3(a)(3)(B), (f)(4), added "not less than" following "subcommittee of" and "Associate" preceding "Administrator" and struck out "the Administration of" preceding "Juvenile".

Subsec. (f). Pub. L. 95-115, § 3(f)(5), substituted provisions requiring staff support to be requested of the Associate Administrator, for provisions requiring the appointment of personnel to be made by the Chairman.

Subsec. (g). Pub. L. 95-115, § 3(f)(6), added subsec. (g).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

SUBPART I—FORMULA GRANTS

§ 5631. Grants to States and units of general local government or combinations thereof

The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(As amended Pub. L. 95-115, § 4(a), Oct. 3, 1977, 91 Stat. 1050.)

AMENDMENTS

1977—Pub. L. 95-115 added "grants and" preceding "contracts" and substituted "units of general local government or combinations thereof" for "local governments".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5632. Allocation of funds

(a) Time; basis; amounts

In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $225,000, except that for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands no allotment shall be less than $56,250.

[*See main edition for text of* (b)]

(c) Use of alloted funds for development, etc., of state plans; limitations; matching requirements

In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to units of general local government or combinations thereof within the State on an equitable basis.

[*See main edition for text of* (d)]

(e) Minimum annual allotment for assistance of advisory group

In accordance with regulations promulgated under this part, 5 per centum of the minimum annual allotment to any State under this part shall be available to assist the advisory group established under section 5633(a)(3) of this title.

(As amended Pub. L. 95-115, § 4(b)(1), (3), (4)(A), Oct. 3, 1977, 91 Stat. 1051.)

AMENDMENT OF SUBSECTIONS (c), (d), AND (e)

Section 4(b)(2)(A), (B), (D) of Pub. L. 95-115 provided that, effective Oct. 1, 1978, subsec. (c) of this section is amended to read as follows:

In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan or for other pre-award activities associated with such State plan, and to pay that portion of the expenditures which are necessary for ef-

ficient administration, including monitoring and evaluation. Not more than 7½ per centum of the total annual allotment of such State shall be available for such purposes except that any amount expended or obligated by such State, or by units of general local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The State shall make available needed funds for planning and administration to units of general local government or combinations thereof within the State on an equitable basis.

Section 4(b)(2)(C), (D) of Pub. L. 95-115 provided that, effective Oct. 1, 1978, subsec. (d) of this section is struck out.

Section 4(b)(4)(B) of Pub. L. 95-115 provided that, effective Oct. 1, 1978, subsec. (e) of this section is redesignated (d).

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, § 4(b)(1), substituted "$225,000" for "$200,000" and "$56,250" for "$50,000".

Subsec. (c). Pub. L. 95-115, § 4(b)(3), substituted "units of general local government or combinations thereof" for "local government".

Subsec. (e). Pub. L. 95-115, § 4(b)(4)(A), added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5633, 5638 of this title.

§ 5633. State plans

(a) Requirements

In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes consistent with the provisions of section 3733(a)(1), (3), (5), (6), (8), (10), (11), (12), (15), and (17) of this title. In accordance with regulations established under this subchapter, such plan must—

[*See main edition for text of (1) and (2)*]

(3) provide for an advisory group appointed by the chief executive of the State to carry out the functions specified in subparagraph (F) and to participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action and (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of a juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, or youth services departments, (C) which shall include representatives of private organizations concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; business groups and businesses employing youth, youth workers involved with alternative youth programs, and persons with special experience and competence in addressing the problem of school violence and vandalism and the problem of learning disabilities; and organizations which represent employees affected by this chapter, (D) a majority of whose members (including the chairman) shall not be full-time employees of the Federal, State, or local government, (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment at least three of whom shall have been or shall currently be under the jurisdiction of the juvenile justice system; and (F) which (i) shall, consistent with this subchapter, advise the State planning agency and its supervisory board; (ii) may advise the Governor and the legislature on matters related to its functions, as requested; (iii) shall have an opportunity for review and comment on all juvenile justice and delinquency prevention grant applications submitted to the State planning agency other than those subject to review by the State's judicial planning committee established pursuant to section 3723(c) of this title, except that any such review and comment shall be made no later than 30 days after the submission of any such application to the advisory group; and (iv) may be given a role in monitoring State compliance with the requirements of paragraph (12)(A) and paragraph (13), in advising on State planning agency and regional planning unit supervisory board composition, in advising on the State's maintenance of effort under sections 3768(b) and 5671(b) of this title, and in review of the progress and accomplishments of juvenile justice and delinquency prevention projects funded under the comprehensive State plan;

(4) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;

(5) unless the provisions of this paragraph are waived at the discretion of the Adminis-

trator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66⅔ per centum of funds received by the State under section 5632 of this title, other than funds made available to the State advisory group under section 5632(e) of this title, shall be expended through—

(A) programs of units of general local government or combinations thereof, to the extent such programs are consistent with the State plan; and

(B) programs of local private agencies, to the extent such programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of general local government or combination thereof;

(6) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

[*See main edition for text of* (7)]

(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs. Programs and projects developed from the study may be funded under paragraph (10) provided that they meet the criteria for advanced technique programs as specified therein;

[*See main edition for text of* (9)]

(10) provide that not less than 75 per centum of the funds available to such State under section 5632 of this title, other than funds made available to the State advisory group under section 5632(e) of this title, whether expended directly by the State, by the unit of general local government or combination thereof, or through grants and contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to juvenile detention and correctional facilities, to encourage a diversity of alternatives within the juvenile justice system, and to establish and adopt juvenile justice standards. These advanced techniques include—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, half-way houses, homemaker and home health services, twenty-four hour intake screening, volunteer and crisis home programs, day treatment, and home probation, and any other designated community-based diagnostic, treatment, or rehabilitative service;

[*See main edition for text of* (B)]

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and other youth to help prevent delinquency;

(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system;

[*See main edition for text of* (E) *and* (F)]

(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;

(H) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, are designed to—

[*See main edition for text of* (i) *to* (iii)]

(I) programs and activities to establish and adopt, based on the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State;

(11) provides for the development of an adequate research, training, and evaluation capacity within the State;

(12)(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities; and

(B) provide that the State shall submit annual reports to the Associate Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facilities, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 5603(1) of this title;

(13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (12)(A) and paragraph (13) are met, and for annual reporting of the results of such monitoring to the Associate Administrator;

(15) provide assurance that assistance will be available on an equitable basis to deal with disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth;

[*See main edition for text of (16) to (18)*]

(19) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(20) provide that the State planning agency will from time to time, but not less often then [1] annually, review its plan and submit to Associate the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

(21) contain such other terms and conditions as the Associate Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this subchapter.

Such plan may at the discretion of the Administrator be incorporated into the plan specified in section 3733(a) of this title.

(b) Approval by State planning agency

The State planning agency designated pursuant to subsection (a) of this section, after receiving and considering the advice and recommendations of the advisory group referred to in subsection (a) of this section, shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c) Approval by Administrator; compliance with statutory requirements

The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section. Failure to achieve compliance with the requirement of subsection (a)(12)(A) of this section within the three-year time limitation shall terminate any State's eligibility for funding under this subpart unless the Administrator, with the concurrence of the Associate Administrator, determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 per centum of such juveniles, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding two additional years.

(d) Nonsubmission or nonqualification of plan; expenditure of allotted funds; availability of reallocated funds

In the event that any State chooses not to submit a plan, fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 3757, 3758, and 3759 of this title, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the provisions of section 5632(a) of this title available to public and private agencies for special emphasis prevention and treatment programs as defined in section 5634 of this title. The Administrator shall endeavor to make such reallocated funds available on a preferential basis to programs in nonparticipating States under section 5634(a)(2) of this title and to those States that have achieved substantial or full compliance with the requirement of subsection (a)(12)(A) of this section within the initial three years of participation or have achieved full compliance within a reasonable time thereafter as provided by subsection (c) of this section.

(e) Repealed. Pub. L. 95-115, § 4(c)(15), Oct. 3, 1977, 91 Stat. 1054

(As amended Pub. L. 95-115, §§ 3(a)(3)(B), 4(c)(1), (2), (3)(A), (4)-(6)(A), (7)-(15), Oct. 3, 1977, 91 Stat. 1048, 1051-1054.)

AMENDMENT OF SUBSECTION (a)(5) AND (10)

Section 4(c)(3)(B) of Pub. L. 95-115 provided that, effective Oct. 1, 1978, subsec. (a)(5) of this section is amended by substituting "section 5632(d) of this title" for "section 5632(e) of this title".

Section 4(c)(6)(B) of Pub. L. 95-115 provided that, effective Oct. 1, 1978, subsec. (a)(10) of this section is amended by substituting "section 5632(d) of this title" for "section 5632(e) of this title".

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-115, § 4(c)(1), in the material preceding subpar. (A) substituted provisions relating to functions under subpar. (F) and participation in the development and review of the plan, for provisions relating to advisement of the State planning agency and its supervisory board, in subpar. (C) added provision relating to representatives from business groups and businesses, and in subpar. (E) added requirement for at least three of the members to be or have been under the jurisdiction of the juvenile justice system, and added subpar. (F).

Subsec. (a)(4). Pub. L. 95-115. § 4(c)(2), added provisions relating to grants or contracts with local private agencies or the advisory group, and substituted "units of general local government or combinations thereof in" for "local governments in".

[1] So in original. Probably should be "than".

Subsec. (a)(5). Pub. L. 95-115, § 4(c)(3)(A), substituted provisions relating to requirements respecting expenditure of funds through programs of units of general local government or combinations thereof and programs of local private agencies, for provisions relating to requirements respecting expenditure of funds through programs of local government.

Subsec. (a)(6). Pub. L. 95-115, § 4(c)(4), added provision relating to regional planning agency and "unit of general" preceding "local government".

Subsec. (a)(8). Pub. L. 95-115, § 4(c)(5), added provisions relating to programs and projects developed under the study.

Subsec. (a)(10). Pub. L. 95-115, § 4(c)(6)(A)(i), added provisions relating to availability of funds to the State advisory group and provisions expanding authorized use of funds to include encouragement of diversity of alternatives within the juvenile justice system and adoption of juvenile justice standards, and substituted reference to unit of general local government or combination of such unit with the State, for reference to local government.

Subsec. (a)(10)(A). Pub. L. 95-115, § 4(c)(6)(A)(ii), added "twenty-four hour intake screening, volunteer and crisis home programs, day treatment, and home probation," following "health services,".

Subsec. (a)(10)(C). Pub. L. 95-115, § 4(c)(6)(A)(iii), substituted "other youth to help prevent delinquency" for "youth in danger of becoming delinquent".

Subsec. (a)(10)(D). Pub. L. 95-115, § 4(c)(6)(A)(iv), substituted provisions relating to programs stressing advocacy activities, for provisions relating to programs of drug and alcohol abuse education and prevention and programs for treatment and rehabilitation of drug addicted youth and drug dependent youth as defined in section 201(q) of this title.

Subsec. (a)(10)(G). Pub. L. 95-115, § 4(c)(6)(A)(v), added "traditional youth" following "reached by".

Subsec. (a)(10)(H). Pub. L. 95-115, § 4(c)(6)(A)(vi), substituted "are" for "that may include but are not limited to programs".

Subsec. (a)(10)(I). Pub. L. 95-115, § 4(c)(6)(A)(vii), added subsec. (a)(10)(I).

Subsec. (a)(12). Pub. L. 95-115, § 4(c)(7), redesignated existing provisions as subpar. (A) and, as so redesignated, substituted provisions relating to detention requirements respecting programs within three years after submission of the initial plan, for provisions relating to detention requirements respecting programs within two years after submission of the plan, and added subpar. (B).

Subsec. (a)(13). Pub. L. 95-115, § 4(c)(8), added "and youths within the purview of paragraph (12)" following "delinquent".

Subsec. (a)(14). Pub. L. 95-115, §§ 3(a)(3)(B), 4(c)(9), added "(A)" following "(12)" and "Associate" preceding "Administrator" and substituted "facilities, correctional facilities, and non-secure facilities" for "facilities, and correctional facilities".

Subsec. (a)(15). Pub. L. 95-115, § 4(c)(10), struck out "all" preceding "disadvantaged".

Subsec. (a)(19). Pub. L. 95-115, § 4(c)(11), struck out ", to the extent feasible and practical" preceding "the level".

Subsec. (a)(20), (21). Pub. L. 95-115, § 3(a)(3)(B), added "Associate" preceding "Administrator" wherever appearing therein.

Subsec. (b). Pub. L. 95-115, § 4(c)(12), substituted provisions relating to advice and recommendations for provisions relating to consultations.

Subsec. (c). Pub. L. 95-115, § 4(c)(13), added provisions relating to failure to achieve compliance with the requirements of subsec. (a)(12)(A) within the three-year time limitation.

Subsec. (d). Pub. L. 95-115, § 4(c)(14), added provision relating to the State choosing not to submit a plan and provision relating to reallocation of funds by the Administrator.

Subsec. (e). Pub. L. 95-115, § 4(c)(15), struck out subsec. (e) which related to reallotment of funds in a state where the state plan fails to meet the requirements of this section as a result of oversight or neglect.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3723, 3733, 3767, 5616, 5632, 5635, 5651 of this title.

SUBPART II—SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

§ 5634. Funding

(a) Grants and contracts to public and private agencies, organizations, etc.; purpose

The Administrator is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

[*See main edition for text of (1) and (2)*]

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and other youth to help prevent delinquency;

(5) facilitate the adoption of the recommendations of the Advisory Committee and the Institute as set forth pursuant to section 5657 of this title;

(6) develop and implement, in coordination with the Commissioner of Education, model programs and methods to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

(7) develop and support programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system;

(8) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies and organizations and business and industry programs for youth employment;

(9) improve the juvenile justice system to conform to standards of due process;

(10) develop and support programs designed to encourage and enable State legislatures to consider and further the purposes of this chapter, both by amending State laws where necessary, and devoting greater resources to those purposes; and

(11) develop and implement programs relating to juvenile delinquency and learning disabilities.

(b) Limitations on availability of appropriated funds

Twenty-five per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

(c) Availability of funds for private agencies, etc.

At least 30 per centum of the funds available for grants and contracts made pursuant to this section shall be available for grants and contracts to private nonprofit agencies, organizations, or institutions who have had experience in dealing with youth.

(As amended Pub. L. 95-115, § 4(d), Oct. 3, 1977, 91 Stat. 1054.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(10), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-115, § 4(d)(1), added provisions relating to restitution projects.

Subsec. (a)(4). Pub. L. 95-115, § 4(d)(2), substituted "and other youth to help prevent delinquency" for "and youths in danger of becoming delinquent".

Subsec. (a)(5). Pub. L. 95-115, § 4(d)(3), struck out "on Standards for Juvenile Justice" following "Committee" and "and" following "title;".

Subsec. (a)(6). Pub. L. 95-115, § 4(d)(4), added provision relating to coordination with the Commissioner of Education and provision relating to prevention of school violence and vandalism.

Subsec. (a)(7) to (11). Pub. L. 95-115, § 4(d)(5), added subsec. (a)(7) to (11).

Subsec. (b). Pub. L. 95-115, § 4(d)(6), substituted provisions authorizing the availability of twenty-five per centum of the funds appropriated for provisions authorizing the availability of not less than twenty-five or more than fifty per centum of the funds appropriated.

Subsec. (c). Pub. L. 95-115, § 4(d)(7), substituted "30" for "20".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5633, 5635, 5638 of this title.

§ 5635. Applications for grants and contracts

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Approval by Administrator; criteria

In determining whether or not to approve applications for grants under section 5634 of this title, the Administrator shall consider—

[*See main edition for text of* (*1*) *to* (*3*)]

(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents and other youth to help prevent delinquency;

(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency;

(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee as set forth pursuant to section 5657 of this title; and

[*See main edition for text of* (*7*) *and* (*d*)]

(As amended Pub. L. 95-115, § 4(e), Oct. 3, 1977, 91 Stat. 1055.)

AMENDMENTS

1977—Subsec. (c)(4). Pub. L. 95-115, § 4(e)(1), substituted "and other youth to help prevent delinquency" for "or youths in danger of becoming delinquents".

Subsec. (c)(5). Pub. L. 95-115, § 4(e)(2), struck out "and" following "delinquency;".

Subsec. (c)(6). Pub. L. 95-115, § 4(e)(3), substituted "title; and" for "title.", and struck out "on Standards for Juvenile Justice" following "Committee".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5637. Use of funds; limitations

(a) Funds paid pursuant to this subchapter to any public or private agency, organization, institution, or individual (whether directly or through a State planning agency) may be used for—

[*See main edition for text of* (*1*) *and* (*2*)]

(b) Except as provided by subsection (a) of this section, no funds paid to any public or private agency, organization, institution, or individual under this subchapter (whether directly or through a State planning agency) may be used for construction.

(As amended Pub. L. 95-115, § 4(f), Oct. 3, 1977, 91 Stat. 1055.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, § 4(f)(1), substituted "public or private agency, organization, institution, or individual (whether directly or through a State planning agency)" for "State, public or private agency,

institution, or individual (whether directly or through a State or local agency)".

Subsec. (b). Pub. L. 95-115, § 4(f)(2), substituted "organization, institution, or individual under this subchapter (whether directly or through a State planning agency)" for "institution, or individual under this part (whether directly or through a State agency or local agency)".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5638. Continuing financial assistance for programs

[*See main edition for text of* (a)]

(b) Utilization of formula grant funds; limitations

At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded by the Law Enforcement Assistance Administration the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

(c) Contributions by recipient

Whenever the Administrator determines that it will contribute to the purposes of part A or part C of this subchapter, he may require the recipient of any grant or contract to contribute money, facilities, or services.

[*See main edition for text of* (d)]

(e) Amount of assistance

Except as provided in the second sentence of section 5632(c) of this title, financial assistance extended under the provisions of this subchapter shall be 100 per centum of the approved costs of any program or activity.

(f) Grants to Indian tribe or other aboriginal group; increase in Federal share; waiver of State liability

In the case of a grant under this part to an Indian tribe or other aboriginal group, if the Administrator determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent he deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator is authorized to waive State liability and may pursue such legal remedies as are necessary.

(g) Reallocation of funds

If the Administrator determines, on the basis of information available to him during any fiscal year, that a portion of the funds granted to an applicant under this part for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 3757 of this title, that portion shall be available for reallocation under section 5634 of this title.

(As amended Pub. L. 95-115, § 4(g)(1), (2), (3)(A), Oct. 3, 1977, 91 Stat. 1055, 1056.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-115, § 4(g)(1), substituted "by the Law Enforcement Assistance Administration" for "under this part".

Subsec. (c). Pub. L. 95-115, § 4(g)(2), substituted "part A or part C" for "this part".

Subsecs. (e) to (g). Pub. L. 95-115, § 4(g)(3)(A), added subsecs. (e) to (g).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment, except subsec. (e), by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

Addition of subsec. (e) effective Oct. 1, 1978, pursuant to section 4(g)(3)(B) of Pub. L. 95-115.

§ 5639. Confidentiality of program records

Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this subchapter may not be disclosed except with the consent of the service recipient or legally authorized representative, or as may be necessary to perform the functions required by this subchapter. Under no circumstances may project reports or findings available for public dissemination contain the actual names of individual service recipients.

(Pub. L. 93-415, title II, § 229, as added Pub. L. 95-115, § 4(h), Oct. 3, 1977, 91 Stat. 1056.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART C—NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5638 of this title.

§ 5651. Institute structure and operation

[*See main edition for text of* (a)]

(b) Deputy Associate Administrator as head; Associate Administrator to supervise and direct

The National Institute for Juvenile Justice and Delinquency Prevention shall be under the supervision and direction of the Associate Administrator, and shall be headed by a Deputy Associate Administrator of the Office appointed under section 5611(f) of this title.

[*See main edition for text of* (c)]

(d) Purpose of Institute

It shall be the purpose of the Institute to provide a coordinating center for the collection, preparation, and dissemination of useful data regarding the treatment and control of juvenile offenders, and it shall also be the purpose of the Institute to provide training for representatives of Federal, State, and local law enforcement officers, teachers, and other educational personnel, juvenile welfare workers, juvenile

judges and judicial personnel, probation personnel, correctional personnel and other persons, including lay personnel, including persons associated with law-related education programs, youth workers, and representatives of private youth agencies and organizations, connected with the treatment and control of juvenile offenders.

(e) Additional powers

In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) make grants and enter into contracts with public or private agencies, organizations, or individuals, for the partial performance of any functions of the Institute;

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently; and

(6) assist, through training, the advisory groups established pursuant to section 5633(a)(3) of this title or comparable public or private citizen groups in nonparticipating States in the accomplishment of their objectives consistent with this chapter.

(f) Cooperation of other federal agencies

Any Federal agency which receives a request from the Institute under subsection (e)(1) of this section may cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute.

(As amended Pub. L. 95-115, §§ 3(a)(3)(A), (5), 5(a), (f), Oct. 3, 1977, 91 Stat. 1048, 1049, 1056, 1057.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(6), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-115, § 3(a)(3)(A), (5), substituted "Associate" for "Assistant" wherever appearing therein.

Subsec. (d). Pub. L. 95-115, § 5(a)(1), (f), redesignated former subsec. (f) as (d) and, as so redesignated, expanded scope of lay personnel to include persons associated with law-related education programs, etc. Former subsec. (d), which set forth the responsibilities of the Administrator, was struck out.

Subsec. (e). Pub. L. 95-115, § 5(a)(1), (2), (3), redesignated former subsec. (g) as (e) and, as so redesignated, in par. (4) added provision authorizing the making of grants and added par. (6). Former subsec. (e), which authorized the Administrator to delegate powers under this chapter, was struck out.

Subsec. (f). Pub. L. 95-115, § 5(a)(1), (4), (5), redesignated former subsec. (h) as (f) and, as so redesignated, substituted "(e)" for "(g)". Former subsec. (f) was redesignated as (d).

Subsec. (g). Pub. L. 95-115, § 5(a)(1), redesignated former subsec. (g) as (e).

Subsec. (h). Pub. L. 95-115, § 5(a)(4), redesignated former subsec. (h) as (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5653. Research, demonstration, and evaluation functions of Institute

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

[*See main edition for text of (1) to (3)*]

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Associate Administrator;

(5) prepare, in cooperation with educational institutions, Federal, State, and local agencies, and appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including recommendations designed to promote effective prevention and treatment, such as assessments regarding the role of family violence, sexual abuse or exploitation and media violence in delinquency, the improper handling of youth placed in one State by another State, the possible ameliorating roles of recreation and the arts, and the extent to which youth in the juvenile system are treated differently on the basis of sex and the ramifications of such practices;

[*See main edition for text of (6) and (7)*]

(As amended Pub. L. 95-115, §§ 3(a)(3)(B), 5(b), Oct. 3, 1977, 91 Stat. 1048, 1057.)

AMENDMENTS

1977—Par. (4). Pub. L. 95-115, § 3(a)(3)(B), added "Associate" preceding "Administrator".

Par. (5). Pub. L. 95-115, § 5(b), added provisions relating to assessments regarding the role of family violence, etc.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5654. Training function of Institute

The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

[*See main edition for text of (1) and (2)*]

(3) devise and conduct a training program, in accordance with the provisions of sections 5659, 5660, and 5661 of this title, of short-term instruction in the latest proven-effective methods of prevention, control, and treatment of juvenile delinquency for correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel), including persons associated with law-related education programs, youth workers, and representatives of private youth agencies and organizations) connected with the prevention and treatment of juvenile delinquency; and

(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders.

(As amended Pub. L. 95-115, § 5(f), Oct. 3, 1977, 91 Stat. 1057.)

AMENDMENTS

1977—Par. (3). Pub. L. 95-115 added provisions expanding scope of lay personnel to include persons associated with law-related education programs, etc.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5655. Functions of the Advisory Committee

The Advisory Committee shall advise, consult with, and make recommendations to the Associate Administrator concerning the overall policy and operations of the Institute.

(As amended Pub. L. 95-115, § 5(c), Oct. 3, 1977, 91 Stat. 1057.)

AMENDMENTS

1977—Pub. L. 95-115 substituted provisions relating to the functions of the Advisory Committee with respect to the Associate Administrator concerning the policy and operations of the Institute, for provisions relating to the functions of the Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention with respect to the Deputy Assistant Administrator for the National Institute concerning the policy and operations of the Institute.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5656. Annual report by Deputy Associate Administrator; time; contents; summary to President and Congress

The Deputy Associate Administrator for the National Institute for Juvenile Justice and Delinquency Prevention shall develop annually and submit to the Associate Administrator after the first year the legislation is enacted, prior to September 30, a report on research, demonstration, training, and evaluation programs funded under this subchapter, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Associate Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 5614(b)(5) of this title.

(As amended Pub. L. 95-115, § 3(a)(3), (5), Oct. 3, 1977, 91 Stat. 1048, 1049.)

AMENDMENTS

1977—Pub. L. 95-115, § 3(a)(3), substituted "Deputy Associate Administrator" for "Deputy Assistant Administrator" and inserted "Associate" preceding "Administrator" in two instances.

Pub. L. 95-115, § 3(a)(5), enacted identical amendment as section 3(a)(3) by substituting "Deputy Associate Administrator" for "Deputy Assistant Administrator".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5657. Standards for juvenile justice system

(a) Functions of Institute

The National Institute for Juvenile Justice and Delinquency Prevention, under the supervision of the Advisory Committee, shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

[*See main edition for text of (b) and (c)*]

(d) Refinement of recommended standards and assistance in adoption of State and local standards; development of model State legislation

Following the submission of its report under subsection (b) of this section the Advisory Committee shall direct its efforts toward refinement of the recommended standards and may assist State and local governments and private agencies and organizations in the adoption of appropriate standards at State and local levels. The National Institute for Juvenile Justice and Delinquency Prevention is authorized to develop and support model State legislation consistent with the mandates of this chapter and the standards developed by Advisory Committee.

(As amended Pub. L. 95-115, § 5(d), Oct. 3, 1977, 91 Stat. 1057.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723,

3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, § 5(d)(1), struck out "on Standards for Juvenile Justice established in section 5618(e) of this title" following "Committee".

Subsec. (d). Pub. L. 95-115, § 5(d)(2), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5658. Repealed. Pub. L. 95-115, § 5(e)(1), Oct. 3, 1977, 91 Stat. 1057

Section, Pub. L. 93-415, title II, § 248, Sept. 7, 1974, 88 Stat. 1128, set forth provisions relating to restrictions on disclosure and transfer of juvenile records. See section 5639 of this title.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5659. Training program; establishment; purpose; utilization of state and local facilities, personnel, etc.; enrollees

(a) The Associate Administrator shall establish within the Institute a training program designed to train enrollees with respect to methods and techniques for the prevention and treatment of juvenile delinquency. In carrying out this program the Associate Administrator is authorized to make use of available State and local services, equipment, personnel, facilities and the like.

(b) Enrollees in the training program established under this section shall be drawn from correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel), including persons associated with law-related education programs, youth workers, and representatives of private youth agencies and organizations) connected with the prevention and treatment of juvenile delinquency.

(Pub. L. 93-415, title II, § 248, formerly § 249, Sept. 7, 1974, 88 Stat. 1128, renumbered and amended Pub. L. 95-115, §§ 3(a)(3)(B), 5(e)(1), (f), Oct. 3, 1977, 91 Stat. 1048, 1057.)

PRIOR PROVISIONS

A prior section 248 of Pub. L. 93-415, relating to restrictions on disclosure and transfer of juvenile records, was classified to section 5658 of this title and was repealed by Pub. L. 95-115, § 5(e)(1), Oct. 3, 1977, 91 Stat. 1057.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, § 3(a)(3)(B), added "Associate" preceding "Administrator" wherever appearing therein.

Subsec. (b). Pub. L. 95-115, § 5(f), added provisions expanding scope of lay personnel to include persons associated with law-related education programs, etc.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5660. Curriculum for training program

The Associate Administrator shall design and supervise a curriculum for the training program established by section 5659 of this title which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program.

(Pub. L. 93-415, title II, § 249, formerly § 250, Sept. 7, 1974, 88 Stat. 1128, renumbered and amended Pub. L. 95-115, §§ 3(a)(3)(B), 5(e)(1), (2)(A), Oct. 3, 1977, 91 Stat. 1048, 1057.)

PRIOR PROVISIONS

A prior section 249 of Pub. L. 93-415, relating to the establishment of a training program within the National Institute for Juvenile Justice and Delinquency Prevention, was renumbered section 248 of Pub. L. 93-415 by Pub. L. 95-115, § 5(e)(1), Oct. 3, 1977, 91 Stat. 1057, and is classified to section 5659 of this title.

AMENDMENTS

1977—Pub. L. 95-115 added "Associate" preceding "Administrator" and substituted "section 248" for "section 249" which for purposes of codification had already been translated as "section 5659 of this title", thereby necessitating no further change in text.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5661. Enrollment for training program

(a) Application

Any person seeking to enroll in the training program established under section 5659 of this title shall transmit an application to the Associate Administrator, in such form and according to such procedures as the Associate Administrator may prescribe.

(b) Admittance; determination by Secretary

The Associate Administrator shall make the final determination with respect to the admittance of any person to the training program. The Associate Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 5659(b) of this title.

[*See main edition for text of* (c)]

(Pub. L. 93-415, title II, § 250, formerly § 251, Sept. 7, 1974, 88 Stat. 1128, renumbered and amended Pub. L. 95-115, §§ 3(a)(3)(B), 5(e)(1), (2)(B), Oct. 3, 1977, 91 Stat. 1048, 1057.)

PRIOR PROVISIONS

A prior section 250 of Pub. L. 93-415, relating to the curriculum for the training program within the National Institute of Juvenile Justice and Delinquency Prevention, was renumbered section 249 of Pub. L. 93-415 by Pub. L. 95-115, § 5(e)(1), Oct. 3, 1977, 91 Stat. 1057, and is classified to section 5660 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, §§ 3(a)(3)(B), 5(e)(2)(B) added "Associate" preceding "Administrator" wherever appearing therein and substituted "section 248" for "section 249" which for purposes of codification had been translated already as "section 5659 of this title" thereby necessitating no further change in text.

Subsec. (b). Pub. L. 95-115, §§ 3(a)(3)(B), 5(e)(2)(B), added "Associate" preceding "Administrator" wherever appearing therein and substituted "section 248(b)" for "section 249(b)" which for purposes of codification already had been translated as "section 5659(b) of this title", thereby necessitating no further change in text.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART D—ADMINISTRATIVE PROVISIONS

§ 5671. Authorization of appropriations; availability of funds; juvenile delinquency programs

(a) To carry out the purposes of this subchapter there is authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1978, $175,000,000 for the fiscal year ending September 30, 1979, and $200,000,000 for the fiscal year ending September 30, 1980. Funds appropriated for any fiscal year may remain available for obligation until expended.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-115, § 6(b), Oct. 3, 1977, 91 Stat. 1058.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115 substituted provisions setting forth authorization of appropriations for the fiscal year ending Sept. 30, 1978, through the fiscal year ending Sept. 30, 1980, and authorization of availability of funds until expended, for provisions setting forth authorization of appropriations for the fiscal year ending June 30, 1975, through the fiscal year ending Sept. 30, 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3767, 3768, 5633 of this title.

§ 5672. Applicability of other administrative provisions

The administrative provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [42 U.S.C. 3701 et seq.], designated as sections 501 [42 U.S.C. 3751], 504 [42 U.S.C. 3754], 507 [42 U.S.C. 3755], 509 [42 U.S.C. 3757], 510 [42 U.S.C. 3758], 511 [42 U.S.C. 3759], 516 [42 U.S.C. 3764], 518(c) [42 U.S.C. 3766(c)], 521 [42 U.S.C. 3769], and 524(a) and (c) [42 U.S.C. 3771(a), (c)] of such Act, are incorporated herein as administrative provisions applicable to this chapter.

(As amended Pub. L. 95-115, § 6(c), Oct. 3, 1977, 91 Stat. 1058.)

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in text, is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, as amended. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is classified principally to chapter 46 (§ 3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-115 substituted provisions setting forth applicability of specified statutory requirements, for provisions setting forth prohibitions against discrimination and required terms in grants, contracts, and agreements and enforcement procedures thereof.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by section 6(d)(2) of Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

SUBCHAPTER III—RUNAWAY YOUTH

PART A—GRANTS PROGRAM

§ 5711. Authorization for grants, technical assistance and short-term training; purposes; amount of grant; priority

The Secretary is authorized to make grants and to provide technical assistance and short-term training to States, localities and nonprofit private agencies and coordinated networks of such agencies in accordance with the provisions of this part. Grants under this part shall be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth or otherwise homeless youth in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of such youth in the community and the existing availability of services. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with such youth.

(As amended Pub. L. 95-115, § 7(a)(1), Oct. 3, 1977, 91 Stat. 1058.)

AMENDMENTS

1977—Pub. L. 95-115 substituted "technical assistance and short-term training to States, localities and nonprofit private agencies and coordinated networks of such agencies in" for "technical assistance to localities and nonprofit private agencies in", "needs of runaway youth or otherwise homeless youth in" for "needs of runaway youth in", and "such youth" for "runaway youth" in two places.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub.

L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5712. Eligibility; plan requirements

[*See main edition for text of (a)*]

(b) In order to qualify for assistance under this part, an applicant shall submit a plan to the Secretary meeting the following requirements and including the following information. Each house—

[*See main edition for text of (1) to (4)*]

(5) shall develop an adequate plan for aftercare counseling involving runaway youth and their parents within the State in which the runaway house is located and for assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway house is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves, except that records maintained on individual runaway youths shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway youths;

[*See main edition for text of (7) to (10)*]

(As amended Pub. L. 95-115, § 7(a)(2), (3), Oct. 3, 1977, 91 Stat. 1058.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-115 in par. (5) substituted "aftercare services" for "aftercase services" and in par. (6) substituted "the consent of the individual youth and parent or legal guardian" for "parental consent".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5713. Approval of application by Secretary; priority

An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 5712 of this title. Priority shall be given to grants smaller than $100,000. In considering grant applications under this part, priority shall be given to any applicant whose program budget is smaller than $150,000.

(As amended Pub. L. 95-115, § 7(a)(4), Oct. 3, 1977, 91 Stat. 1058.)

AMENDMENTS

1977—Pub. L. 95-115 substituted "$100,000" and "$150,000" for "$75,000" and "$100,000", respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART B—RECORDS

§ 5731. Restrictions on disclosure and transfer

Records containing the identity of individual youths pursuant to this chapter may under no circumstances be disclosed or transferred to any individual or to any public or private agency.

(As amended Pub. L. 95-115, § 7(b), Oct. 3, 1977, 91 Stat. 1058.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which enacted this chapter and sections 3772 to 3774 and 3821 of this title and sections 4351 to 4353 and 5038 to 5042 of Title 18, Crimes and Criminal Procedure, amended sections 3701, 3723, 3733, 3768, 3811 to 3814, 3882, and 3883 to 3888 of this title, section 5108 of Title 5, Government Organization and Employees, and sections 5031 to 5037 of Title 18, and repealed section 3889 of this title.

AMENDMENTS

1977—Pub. L. 95-115 substituted provisions relating to restrictions on disclosure and transfer of records, for provisions relating to scope, etc., of statistical report to Congress.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

§ 5732. Repealed. Pub. L. 95-115, § 7(b), Oct. 3, 1977, 91 Stat. 1058

Section, Pub. L. 93-415, title III, § 322, Sept. 7, 1974, 88 Stat. 1132, set forth restrictions on disclosure and transfer of records. See section 5731 of this title.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART C—REORGANIZATION

§ 5741. Reorganization plan; submittal to Congress; required contents

(a) After April 30, 1978, the President may submit to the Congress a reorganization plan which, subject to the provisions of subsection (b) of this section, shall take effect, if such reorganization plan is not disapproved by a resolution of either House of the Congress, in accordance with the provisions of, and the procedures established by chapter 9 of title 5, except to the extent provided in this part.

(b) A reorganization plan submitted in accordance with the provisions of subsection (a) of this section shall provide—

(1) for the establishment of an Office of Youth Assistance which shall be the principal

agency for purposes of carrying out this subchapter and which shall be established—

(A) within the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice; or

(B) within the ACTION Agency;

(2) that the transfer authorized by paragraph (1) shall be effective 30 days after the last date on which such transfer could be disapproved under chapter 9 of title 5;

(3) that property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions of the Office of Youth Development within the Department of Health, Education, and Welfare in the operation of functions pursuant to this subchapter, shall be transferred to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, and that all grants, applications for grants, contracts, and other agreements awarded or entered into by the Office of Youth Development shall continue in effect until modified, superseded, or revoked;

(4) that all official actions taken by the Secretary of Health, Education, and Welfare, his designee, or any other person under the authority of this subchapter which are in force on the effective date of such plan, and for which there is continuing authority under the provisions of this subchapter, shall continue in full force and effect until modified, susperseded,[1] or revoked by the Associate Administrator for the office [2] of Juvenile Justice and Delinquency Prevention or by the Director of the ACTION Agency, as the case may be, as appropriate; and

(5) that references to the Office of Youth Development within the Department of Health, Education, and Welfare in any statue,[3] reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, as appropriate.

(Pub. L. 93-415, title III, § 331, as added Pub. L. 95-115, § 7(c), Oct. 3, 1977, 91 Stat. 1059.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

PART D—AUTHORIZATION OF APPROPRIATIONS

AMENDMENTS

1977—Pub. L. 95-115, § 7(c), Oct. 3, 1977, 91 Stat. 1059, designated former part C of this subchapter as part D.

[1] So in original. Probably should be "superseded".

[2] So in original. Probably should be "Office".

[3] So in original. Probably should be "statute".

§ 5751. Amounts authorized for programs and activities; consultative and coordinating requirements

(a) To carry out the purposes of part A of this subchapter there is authorized to be appropriated for each of the fiscal years ending June 30, 1975, and 1976, and September 30, 1977, the sum of $10,000,000, and for each of the fiscal years ending September 30, 1978, 1979, and 1980, the sum of $25,000,000.

(b) The Secretary (through the Office of Youth Development which shall administer this subchapter) shall consult with the Attorney General (through the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention) for the purpose of coordinating the development and implementation of programs and activities funded under this subchapter with those related programs and activities funded under subchapter II of this chapter and under the Omnibus Crime Control and Safe Streets Act of 1968, as amended [42 U.S.C. 3701 et seq.].

(Pub. L. 93-415, title III, § 341, formerly § 331, Sept. 7, 1974, 88 Stat. 1132, Pub. L. 94-273, § 32(c), Apr. 21, 1976, 90 Stat. 380, renumbered and amended Pub. L. 95-115, § 7(c), (d), Oct. 3, 1977, 91 Stat. 1059, 1060.)

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (b), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, as amended, title I of which is classified principally to chapter 46 (§ 3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-115, § 7(d)(1), added provisions authorizing appropriations for the fiscal years ending Sept. 30, 1978, 1979, and 1980.

Subsec. (b). Pub. L. 95-115, § 7(d)(2) substituted provisions relating to consultative and coordinating requirements for funded programs and activities, for provisions relating to authorization for funding surveys under part B of this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, set out as an Effective Date of 1977 Amendment note under section 5601 of this title.

CHAPTER 73—DEVELOPMENT OF ENERGY SOURCES

SUBCHAPTER I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Sec.
5816a. Financial statements of Administration officers and employees [New].
(a) Annual filing requirement.
(b) Monitoring and enforcement; reports.
(c) Exemption for occupants of nonpolicy making positions.
(d) Penalty.
5817a. Employee-suggested research projects; approval; funding; reports [New].

SUBCHAPTER II—NUCLEAR REGULATORY COMMISSION

5850. Unresolved safety issues plan [New].

§ 5801. Congressional declaration of policy and purpose

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

§ 5811. Establishment of Energy Research and Development Administration

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5812. Officers of the Administration

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The Division of Military Application was transferred to the Department of Energy by section 7158(b) of this title with that organizational unit to be deemed an organizational unit established by chapter 84, section 7101 et seq. of this title.

§ 5813. Responsibilities of the Administrator

The responsibilities of the Administrator shall include, but not be limited to—

[*See main edition for text of (1) to (6)*]

(7) establishing, in accordance with the National Energy Extension Service Act [42 U.S.C. 7001 et seq.], an Energy Extension Service to provide technical assistance, instruction, and practical demonstrations on energy conservation measures and alternative energy systems to individuals, businesses, and State and local government officials;

(8) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(9) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(10) encouraging and participating in international cooperation in energy and related environmental research and development;

(11) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection analysis, and dissemination of necessary manpower supply and demand data;

(12) encouraging and conducting research and development in clean and renewable energy sources.

(As amended Pub. L. 95-39, title V, § 510(a), June 3, 1977, 91 Stat. 200.)

REFERENCES IN TEXT

The National Energy Extension Service Act, referred to in par. (7), is Pub. L. 95-39, title V, June 3, 1977, 91 Stat. 191, which is classified principally to chapter 83 (§ 7001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7001 of this title and Tables.

AMENDMENTS

1977—Par. (7). Pub. L. 95-39 added par. (7). Former par. (7) redesignated as (8).

Pars. (8) to (12). Pub. L. 95-39 redesignated former pars. (7) to (11) as (8) to (12), respectively.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration and the Federal Energy Administration were terminated and functions vested by law in their respective Administrators were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5814. Abolition and transfers

REFERENCES IN TEXT

Section 2036 of this title, referred to in subsec. (d), was repealed by Pub. L. 95-91, title VII, § 709(c)(1), Aug. 4, 1977, 91 Stat. 608.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The Division of Naval Reactors and the Division of Military Applications, both established under section 2035 of this title, and the functions of the Energy Research and Development Administration with respect to the Military Liaison Committee, established by section 2037 of this title, referred to in subsec. (d), were transferred to the Department of Energy by section 7158(b) of this title, with such organizational units to be deemed organizational units established by Chapter 84, section 7101 et seq. of this title.

The functions of the Secretary of the Interior, the Department of the Interior, and the officers and components of the Department of the Interior exercised by the Bureau of Mines relating to fuel supply and demand analysis and data gathering, research and development relating to increased efficiency of production technology of solid fuel minerals other than research relating to mine health and safety and research relating to the environmental and leasing conse-

quences of solid fuel mining, and coal preparation and analysis, referred to in subsec. (e), were transferred to the Secretary of Energy by 7152(d) of this title.

§ 5815. Administrative provisions

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5816. Personnel and services

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5816a. Financial statements of Administration officers and employees

(a) Annual filing requirement

Each officer or employee of the Energy Research and Development Administration who—

(1) performs any functions or duty under this Act or any other Act amended by this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business, other than at the retail level, of developing, producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any other Act amended by this Act, or

(B) in property from which minerals are commercially produced,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statements shall be available to the public.

(b) Monitoring and enforcement; reports

The Administrator shall—

(1) act within ninety days after June 3, 1977—

(A) to define the term "known financial interest" for purposes of paragraph (2) of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemption for occupants of non-policy making positions

In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Penalty

Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 95-39, title III, § 308, June 3, 1977, 91 Stat. 189.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2)(A), means Pub. L. 95-39, June 3, 1977, 91 Stat. 180, which to the extent classified to the Code enacted sections 5816a, 5817a, 5903c, 5907a, 5915a, 5918, and 7001 to 7011 of this title, amended sections 5813, 5818, and 5912 of this title, and enacted provisions set out as notes under sections 5906, 5907, 5914, and 7001 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Energy Reorganization Act of 1974, which comprises this chapter.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5817. Powers of the Administrator

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5817a. Employee-suggested research projects; approval; funding; reports

(a) Any Government-owned contractor operated laboratory, energy research center, or other laboratory performing functions under contract to the Administration may, with the approval of the Administrator, use a reasonable amount of its operating budget for the funding of employee-suggested research projects up to the pilot stage of development. It shall be a condition of any such approval that the director of the laboratory or center involved form an internal review mechanism for determining which employee-suggested projects merit funding in a given fiscal year; and any such project may be funded in one or more succeeding years if the review process indicates that it merits such funding.

(b) Each director of a laboratory or center specified in subsection (a) of this section shall submit an annual report to the Administrator on projects being funded under this section;

and on completion of each such project shall submit a report to the Technical Information Center of the Administration for inclusion in its data base.

(Pub. L. 95-39, title III, § 303, June 3, 1977, 91 Stat. 189.)

CODIFICATION

Section was not enacted as part of the Energy Reorganization Act of 1974, which comprises this chapter.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5818. Repealed. Pub. L. 95-91, title VII, § 709(b), Aug. 4, 1977, 91 Stat. 608

Section, Pub. L. 93-438, title I, § 108, Oct. 11, 1974, 88 Stat. 1241; Pub. L. 94-385, title I, §§ 162, 163, Aug. 14, 1976, 90 Stat. 1140, 1142; Pub. L. 95-39, title V, § 510(b), (c), June 3, 1977, 91 Stat. 200, related to establishment of an Energy Resources Council.

EXECUTIVE ORDER No. 11814

Ex. Ord. No. 11814, Oct. 11, 1974, 39 F.R. 36955, as amended by Ex. Ord. No. 11819, Nov. 16, 1974, 39 F.R. 40743; Ex. Ord. No. 11855, May 1, 1975, 40 F.R. 19423, which related to the activation of the Energy Resources Council, has been omitted from this Code in view of the repeal of section 108 of the Energy Reorganization Act of 1974 [this section] which established the Council.

§ 5820. Coordination with environmental efforts

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER II—NUCLEAR REGULATORY COMMISSION

§ 5841. Establishment and transfers

[*See main edition for text of* (a) *to* (g)]

(h) Quarterly report on compliance with equal employment requirements

The Commission shall prepare and submit to the Congress a quarterly report which documents, for grades GS-11 or above:

(1) the number of minority and women candidates hired, by grade level;

(2) the number of minority and women employees promoted, by grade level;

(3) the procedures followed by the Commission in preparing job descriptions, informing potential applicants, and selecting from candidates the persons to be employed in positions at grade GS-11 or above; and

(4) other steps taken to meet provisions of the Equal Employment Act.

The first such quarterly report shall be submitted to the Congress not later than January 31, 1978, and subsequent reports shall be submitted prior to the end of one calendar month after the end of each calendar quarter thereafter.

(As amended Pub. L. 95-209, § 2, Dec. 13, 1977, 91 Stat. 1482.)

REFERENCES IN TEXT

GS-11, referred to in subsec. (h), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

The Equal Employment Act, referred to in subsec. (h)(4), probably means the Equal Employment Opportunity Act of 1972, Pub. L. 92-261, Mar. 24, 1972, 86 Stat. 103, which enacted sections 2000e-16 and 2000e-17 of this title, amended sections 2000e to 2000e-6, 2000e-8, 2000e-9, 2000e-13 and 2000e-14 of this title and sections 5108 and 5314 to 5316 of Title 5, Government Organization and Employees, and enacted provisions set out as notes under section 2000e-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-209 added subsec. (h).

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by this section and section 5814 of this title. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5845. Office of Nuclear Regulatory Research

[*See main edition for text of* (a) *to* (e)]

(f) Improved safety systems research

The Commission shall develop a long-term plan for projects for the development of new or improved safety systems for nuclear powerplants.

(As amended Pub. L. 95-209, § 4(a), Dec. 13, 1977, 91 Stat. 1482.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-209 added subsec. (f).

§ 5850. Unresolved safety issues plan

The Commission shall develop a plan providing for the specification and analysis of unresolved safety issues relating to nuclear reactors and shall take such action as may be necessary to implement corrective measures with respect to such issues. Such plan shall be submitted to the Congress on or before January 1, 1978 and progress reports shall be included in the annual report of the Commission thereafter.

(Pub. L. 93-438, title II, § 210, as added Pub. L. 95-209, § 3, Dec. 13, 1977, 91 Stat. 1482.)

SUBCHAPTER III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

§ 5871. Transitional provisions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of this title. The Energy Research and

Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5877. Reports to President for submission to Congress

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5914, 7267 of this title.

CHAPTER 74—NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT

Sec.
5903c. Moneys received by Administrator from fossil energy activity; payment into Treasury; reports to House and Senate Committees [New].
5907a. Small grant program [New].
(a) Establishment.
(b) Limitation.
(c) Systems and technologies to be developed and demonstrated.
(d) Eligible participants; simplified application procedures; report to Administration; allocation criteria; guidelines.
(e) Reports to Congress.
5915a. Expiration of initial authorization to construct fossil energy demonstration plants [New].
5918. Organizational conflicts [New].
(a) Conflicts of interest.
(b) Requisite affirmative finding; conflicts of interest which cannot be avoided; mitigation of conflicts.
(c) Publication of implementing rules.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5907a, 6981 of this title; title 7 sections 341, 427, 1923, 1942, 3282.

§ 5902. Congressional declaration of policy and purpose; implementation and administration of program by Administrator of Energy Research and Development Administration

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 5903 to 5903b

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5903c. Moneys received by Administrator from fossil energy activity; payment into Treasury; reports to House and Senate Committees

All moneys received by the Administrator from any fossil energy activity shall be paid into the Treasury to the credit of miscellaneous receipts, except that on December 1 of each year the Administrator shall provide to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of all such receipts for the preceding fiscal year, including, but not limited to, the amount and source of such revenues and the program and subprogram activity generating such revenues.

(Pub. L. 95-39, title I, § 106, June 3, 1977, 91 Stat. 184.)

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974, which comprises this chapter.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 5904, 5905

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5906. Federal assistance and participation in programs

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

PRICE-SUPPORT PROGRAM TO DEMONSTRATE MUNICIPAL SOLID WASTE REPROCESSING FOR PRODUCTION OF FUELS AND ENERGY INTENSIVE PRODUCTS

Pub. L. 95-39, title I, § 107, June 3, 1977, 91 Stat. 185, provided that: "The Administrator [see Transfer of Functions note above] is authorized, subject to the appropriation of funds pursuant to section 101(7)(I) of this Act [which was not classified to the Code], to establish and implement, under section 7(a)(4) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906(a)(4)) and in accordance with section 7(c) of such Act (42 U.S.C. 5906(c)), a price-support program to demonstrate municipal solid waste reprocessing for the production of fuels and energy intensive products. Prior to entering into any contract for such demonstration, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed commercial demonstration facility and the necessary project demonstration guarantees. Such contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees."

§ 5907. Demonstration projects

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secre-

tary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

REPORT TO CONGRESS ON ENVIRONMENTAL, MONITORING, ASSESSMENT, AND CONTROL EFFORTS REQUIRED FOR DEMONSTRATION PROJECTS; SUBMISSION TO CONGRESS BY DECEMBER 3, 1977

Pub. L. 95-39, title I, § 113, June 3, 1977, 91 Stat. 187, provided that: "The Administrator [see Transfer of Functions note set out above], in consultation with the Administrator of the Environmental Protection Agency, shall submit a report to the Congress, six months after enactment of this Act [June 3, 1977], on the environmental monitoring, assessment, and control efforts, relating to environment, safety, and health, which are required to successfully demonstrate any project, which is subject to sections 8(e) and (f) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907(e) and (f)), and is authorized by this Act or any prior Act. The report shall contain the extent to which monitoring and control is required, the estimated costs thereof."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5915a of this title.

§ 5907a. Small grant program

(a) Establishment

There shall be established within the Administration a program for appropriate technology under the direction of the Assistant Administrator for Conservation Research and Development. The Administrator shall develop and implement a program of small grants for the purpose of encouraging development and demonstration projects described in subsection (c) of this section.

(b) Limitation

The aggregate amount of financial support made available to any participant in such program, including affiliates, under this section shall not exceed $50,000 during any two-year period.

(c) Systems and technologies to be developed and demonstrated

Funds made available under this section shall be used to provide for a coordinated and expanded effort for the development and demonstration of, and the dissemination of information with respect to, energy-related systems and supporting technologies appropriate to—

(1) the needs of local communities and the enhancement of community self-reliance through the use of available resources;

(2) the use of renewable resources and the conservation of nonrenewable resources;

(3) the use of existing technologies applied to novel situations and uses;

(4) applications which are energy-conserving, environmentally sound, small scale, durable and low cost; and

(5) applications which demonstrate simplicity of installation, operation and maintenance.

(d) Eligible participants; simplified application procedures; report to Administration; allocation criteria; guidelines

(1) Grants, agreements or contracts under this section may be made to individuals, local nonprofit organizations and institutions, State and local agencies, Indian tribes and small businesses. The Administration shall develop simplified procedures with respect to application for support under this section.

(2) Each grant, agreement or contract under this section shall be governed by the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5908] and shall contain effective provisions under which the Administration shall receive a full written report of activities supported in whole or in part by funds made available by the Administration; and

(3) In determining the allocation of funds among applicants for support under this section the Administrator may take into consideration:

(A) the potential for energy savings or energy production;

(B) the type of fuel saved or produced;

(C) the potential impact on local or regional energy or environmental problems; and

(D) such other criteria as the Administrator finds necessary to achieve the purposes of this Act or the purposes of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5901 et seq.].

Guidelines implementing this section shall be promulgated with full opportunity for public comment.

(e) Reports to Congress

The Administrator shall—

(1) prepare and submit no later than October 1, 1977, a detailed report on plans for implementation, including the timing of implementation, of the provisions of this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives and shall keep such committees fully and currently informed concerning the development of such plans; and

(2) include as a part of the annual report required by section 15(a)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5914(a)(1)] beginning in 1977, a full and complete report on the program under this section.

(Pub. L. 95-39, title I, § 112, June 3, 1977, 91 Stat. 186.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(3)(D), means Pub. L. 95-39, June 3, 1977, 91 Stat. 180, which to the extent classified to the Code enacted sections 5816a, 5817a, 5903c, 5907a, 5915a, 5918, and 7001 to 7011 of this title, amended sections 5813, 5818, and 5912 of this title, and enacted provisions set out as notes under sections 5906, 5907, 5914, and 7001 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (d)(3)(D), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1879, as amended, which is classified generally to this chapter (§ 5901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974, which comprises this chapter.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5908. Patents and inventions

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5906, 5907a, 6981 of this title; title 15 section 2511.

§ 5910. Environmental evaluations by Administrator of Environmental Protection Agency

(a) Continuing analysis of effect of nonnuclear energy technologies

The Administrator of the Environmental Protection Agency is authorized and directed to carry out a continuing analysis of the effect of application of nonnuclear energy technologies to evaluate—

[*See main edition for text of (1) and (2)*]

(b) Employment of consultants or contractors and services of other Federal agencies for studies and investigations

The Administrator of the Environmental Protection Agency, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) Annual public hearings on conduct of energy research and development and environmental consequences; availability of transcript

The Administrator of the Environmental Protection Agency shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the development and application of energy technologies. The transcript of the hearings shall be published and made available to the public.

(d) Reports to President, Administrator, and Congress; inclusion by President of findings of Council in annual Environmental Quality Report

The Administrator of the Environmental Protection Agency shall make such reports to the President, and the Congress as it deems appropriate concerning the conduct of energy research and development. The President as a part of the annual Environmental Policy Report required by section 4341 of this title shall set forth the findings of the Administrator of the Environmental Protection Agency concerning the probable environmental consequences of trends in the development and application of energy technologies.

(As amended 1977 Reorg. Plan No. 1, § 5E, 42 F.R. 56101, 91 Stat. 1634.)

TRANSFER OF FUNCTIONS

"Administrator of the Environmental Protection Agency" was substituted for "Council on Environmental Quality" in the text, and in subsecs. (d) ", the Administrator," was omitted following "reports to the President" pursuant to Reorg. Plan No. 1 of 1977, § 5E, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, which transferred those functions of the Council on Environmental Quality and the Office of Environmental Quality relating to the evaluation provided for by this section to the Administrator of the Environmental Protection Agency, effective on or before Apr. 1, 1978, at such time as specified by the President.

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5912. Water resource assessments

(a) Assessments by Water Resources Council of water resource requirements and water supply availability for nonnuclear energy technologies; preparation requirements

The Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this chapter and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

[*See main edition for text of (1) to (7)*]

(b) Request by Administrator that Water Resources Council prepare assessment of availability of adequate water resources for proposed demonstration projects; report; publication

For any proposed demonstration project which may involve a significant impact on water resources, the Administrator shall, as a precondition of Federal assistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for such project. A report on the assessment shall be published in the Federal Register for public review thirty days prior to the expenditure of Federal funds on the demonstration.

[*See main edition for text of (c) to (e)*]

(f) Administrator as member of Water Resources Council

The Administrator shall, upon enactment of this subsection, be a member of the Council.

(As amended Pub. L. 95-39, title I, § 110, June 3, 1977, 91 Stat. 186.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-39, § 110(1), substituted "The Water Resources Council" for "At the request of the Administrator, the Water Resources Council".

Subsec. (b). Pub. L. 95-39, § 110(2), substituted "the Administrator shall, as a precondition of Federal assistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for such project" for "the Administrator shall, as a precondition of Federal assistance to that project, prepare or have prepared as assessment of the availability of adequate water resources".

Subsec. (f). Pub. L. 95-39, § 110(3), added subsec. (f).

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5913. Evaluation by National Bureau of Standards of energy-related inventions prior to awarding of grants by Administrator; promulgation of regulations

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5914. Reports to Congress

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CLASSIFICATION OF RECIPIENTS OF AWARDS, CONTRACTS, OR OTHER FINANCIAL ARRANGEMENTS; REPORTING REQUIREMENT

Pub. L. 95-39, title I, § 111, June 3, 1977, 91 Stat. 186, provided that:

"(a) The Administrator [see Transfer of Functions note set out above] shall classify each recipient of any award, contract, or other financial arrangement in any nonnuclear research, development, or demonstration category as—

"(1) a Federal agency,

"(2) a non-Federal governmental entity,

"(3) a profitmaking enterprise (indicating whether or not it is a small business concern),

"(4) a nonprofit enterprise other than an educational institution, or

"(5) a nonprofit educational institution.

"(b) The information required by subsection (a), along with the dollar amount of each award, contract, or other financial arrangement made, shall be included as an appendix to the annual report required by section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914): *Provided*, That small purchases or contracts of less than $10,000, which are excepted from the requirements of advertising by section 252(c)(3) of title 41, United States Code, shall be exempt from the reporting requirements of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5905, 5907a, 7007, 7267 of this title.

§ 5915. Authorization of appropriations

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The functions of the Council on Environmental Quality and the Office of Environmental Quality relating to the evaluation provided for by section 5910 of this title were transferred to the Administrator of the Environmental Protection Agency by Reorg. Plan No. 1 of 1977, § 5E 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 6 of Reorg. Plan No. 1 of 1977 authorized the Director of the Office of Management and Budget to transfer to the appropriate agency or department unexpended balances of appropriations allocations and other funds used, held, or available in connection with functions transferred.

§ 5915a. Expiration of initial authorization to construct fossil energy demonstration plants

Notwithstanding any other applicable provision of law, the initial authorization in this Act or any other Act heretofore or hereafter enacted to construct, pursuant to section 5907 of this title, any fossil energy demonstration plant shall expire at the end of the three full fiscal years following the date of enactment of such authorization, unless (1) funds to construct each such plant are appropriated or otherwise provided pursuant to applicable law prior thereto, or (2) such authorization period is extended by specific Act of Congress hereafter enacted.

(Pub. L. 95-39, title I, § 105, June 3, 1977, 91 Stat. 184.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-39, June 3, 1977, 91 Stat. 180. The provisions of this Act relating to an initial authorization for construction pursuant to section 5907 of this title are not classified to the Code.

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974, which comprises this chapter.

§ 5916. Central source of nonnuclear energy information; acquisition of proprietary and other information; availability of information to public, Government agencies, Federal agencies and agency heads for execution of duties and responsibilities, and chairmen of Congressional Committees; disclosure restrictions

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration and the Federal Energy Administration were terminated and functions vested by law in their respective Administrators were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7135 of this title.

§ 5917. Energy information

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 5918. Organizational conflicts

(a) Conflicts of interest

The Administrator shall by regulation require any person proposing to enter into a contract, agreement, or other arrangement, with the Energy Research and Development Administration whether by advertising or negotiation, or for technical consulting and management support services or other such similar services to provide the Administrator, prior to entering into any such contract, agreement, or arrangement, with all relevant information bearing on whether that person has a possible conflict of interest with respect to (1) being able to render impartial, technically sound, or objective assistance or advice in light of other interests or relationships with other persons or (2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations published by the Administrator, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(b) Requisite affirmative finding; conflicts of interest which cannot be avoided; mitigation of conflicts

The Administrator shall not enter into any such contract, agreement, or arrangement unless he affirmatively finds after evaluating all such information and any other relevant information otherwise available to him, either that (1) there is little or no likelihood that a conflict of interest would exist, or (2) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement: *Provided*, That if he determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Administrator may enter into such contract, agreement, or arrangement, if he determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(c) Publication of implementing rules

The Administrator shall publish rules for the implementation of this section, in accordance with section 553 of title 5 as soon as possible after June 3, 1977, but in no event later than 180 days after such date.

(Pub. L. 93-577, § 19, as added Pub. L. 95-39, title IV, § 401, June 3, 1977, 91 Stat. 190.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CHAPTER 75—DEVELOPMENTALLY DISABLED ASSISTANCE AND BILL OF RIGHTS

§ 6001. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 6862 of this title.

CHAPTER 76—AGE DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6727 of this title; title 31 section 1242.

§ 6106. Study of discrimination based on age

[*See main edition for text of (a) to (c)*]

(d) Report to President and Congress; copies to affected Federal departments and agencies; information and technical assistance

Not later than two years after November 28, 1975, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations. The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

[*See main edition for text of (e) to (g)*]

(As amended Pub. L. 95-65, § 1, July 11, 1977, 91 Stat. 269.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-65 substituted "two years" for "eighteen months" and authorized the Commission to provide information and technical assistance regarding its findings and recommendations to Congress, the President, and heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

CHAPTER 77—ENERGY CONSERVATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 7135, 7152, 7194, 7521 of this title; title 15 sections 719j, 759.

§ 6201. Congressional statement of purpose

EX. ORD. NO. 11912. DELEGATION OF AUTHORITIES

Ex. Ord. No. 11912, April 13, 1976, 41 F.R. 15825, as amended by Ex. Ord. No. 12003, July 20, 1977, 42 F.R. 37523, provided:

* * * * *

SECTION 1. (a) The Administrator of General Services is designated and empowered to perform, without approval, ratification or other action by the President, the function vested in the President by Section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). In performing this function, the Administrator of General Services shall:

(1) Promulgate rules which will ensure that the minimum statutory requirement for fleet average fuel economy is exceeded (i) for fiscal year 1978 by 2 miles per gallon, (ii) for fiscal year 1979 by 3 miles per gallon, and (iii) for fiscal years 1980 and after by 4 miles per gallon.

(2) Promulgate rules which will ensure that Executive agencies do not acquire, subsequent to fiscal year 1977, any passenger automobile unless such automobile meets or exceeds the average fuel economy standard for the appropriate model year established by, or pursuant to, Section 502(a) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2002(a)); except that, such rules (i) shall not apply to automobiles designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, and (ii) may provide for granting exemptions for individual automobiles used for special purposes as determined to be appropriate by the Administrator of General Services with the concurrence of the Administrator of the Federal Energy Administration [now Secretary of Energy].

(b) The Administrator of General Services shall promulgate rules which will ensure that each class of nonpassenger automobiles acquired by all Executive agencies in each fiscal year, beginning with fiscal year 1979, achieve for such fiscal year a fleet average fuel economy not less than the average fuel economy standard for such class, established pursuant to Section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 903, 15 U.S.C. 2002(b)), for the model year which includes January 1 of such fiscal year; except that, such rules (1) shall not apply to automobiles designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, and (2) may provide for granting exceptions for other categories of automobiles used for special purposes as determined to be appropriate by the Administrator of General Services with the concurrence of the Administrator of the Federal Energy Administration [now Secretary of Energy].

* * * * *

SEC. 10. (a)(1) The Administrator of the Federal Energy Administration, hereinafter referred to as the Administrator [now Secretary of Energy], shall develop, with the concurrence of the Director of the Office of Management and Budget, and in consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of Veterans' Affairs, the Administrator of the Energy Research and Development Administration [now Secretary of Energy], the Administrator of General Services, and the heads of such other Executive agencies as he deems appropriate, the ten-year plan for energy conservation with respect to Government buildings, as provided by section 381(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6361(a)(2)).

(2) The goals established in subsection (b) shall apply to the following categories of Federally-owned buildings: (i) office buildings, (ii) hospitals, (iii) schools, (iv) prison facilities, (v) multi-family dwellings, (vi) storage facilities, and (vii) such other categories of buildings for which the Administrator determines the establishment of energy-efficiency performance goals is feasible.

(b) The Administrator shall establish requirements and procedures, which shall be observed by each agency unless a waiver is granted by the Administrator, designed to ensure that each agency to the maximum extent practicable aims to achieve the following goals:

(1) For the total of all Federally-owned existing buildings the goal shall be a reduction of 20 percent in the average annual energy use per gross square foot of floor area in 1985 from the average energy use per gross square foot of floor area in 1975. This goal shall apply to all buildings for which construction was or design specifications were completed prior to the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

(2) For the total of all Federally-owned new buildings the goal shall be a reduction of 45 percent in the average annual energy requirement per gross square foot of floor area in 1985 from the average annual energy use per gross square foot of floor area in 1975. This goal shall apply to all new buildings for which design specifications are completed after the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

(c) The Administrator with the concurrence of the Director of the Office of Management and Budget, in consultation with the heads of the Executive agencies specified in subsection (a) and the Director of the National Bureau of Standards, shall establish, for purposes of developing the ten-year plan, a practical and effective method for estimating and comparing life cycle capital and operating costs for Federal buildings, including residential, commercial, and industrial type categories. Such method shall be consistent with the Office of Management and Budget Circular No. A-94, and shall be adopted and used by all agencies in developing their plans pursuant to subsection (e), annual reports pursuant to subsection (g), and budget estimates pursuant to subsection (h). For purposes of this paragraph, the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems.

(d) Not later than November 1, 1977, the Administrator, with the concurrence of the Director of the Office of Management and Budget, and after consultation with the Administrator of General Services and the heads of the Executive agencies specified in subsection (a) shall issue guidelines for the plans to be submitted pursuant to subsection (e).

(e)(1) The head of each Executive agency that maintains any existing building or will maintain any new building shall submit no later than six months after the issuance of guidelines pursuant to subsection (d), to the Administrator a ten-year plan designed to the maximum extent practicable to meet the goals in subsection (b) for the total of existing or new Federal buildings. Such ten-year plans shall only consider improvements that are cost-effective consistent with the criteria established by the Director of the Office of Management and Budget (OMB Circular A-94) and the method established pursuant to subsection (c) of this Section. The plan submitted shall specify appropriate energy-saving initiatives and shall estimate the expected improvements by fiscal year in terms of specific accomplishments—energy savings and cost savings—together with the estimated costs of achieving the savings.

(2) The plans submitted shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with over 30,000 gross square feet of space owned and maintained by Executive agencies. Further, the second annual report submitted under subsection (g)(2) of this Section shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing build-

ings with more than 5,000 but not more than 30,000 gross square feet of space. The purpose of such preliminary energy audits shall be to identify the type, size, energy use level and major energy using systems of existing Federal buildings.

(3) The Administrator shall evaluate agency plans relative to the guidelines established pursuant to subsection (d) for such plans and relative to the cost estimating method established pursuant to subsection (c). Plans determined to be deficient by the Administrator will be returned to the submitting agency head for revision and resubmission within 60 days.

(4) The head of any Executive agency submitting a plan, should he disagree with the Administrator's determination with respect to that plan, may appeal to the Director of the Office of Management and Budget for resolution of the disagreement.

(f) The head of each agency submitting a plan or revised plan determined not deficient by the Administrator or, on appeal, by the Director of the Office of Management and Budget, shall implement the plan in accord with approved budget estimates.

(g)(1) Each Executive agency shall submit to the Administrator an overall plan for conserving fuel and energy in all operations of the agency. This overall plan shall be in addition to and include any ten-year plan for energy conservation in Government buildings submitted in accord with Subsection (e).

(2) By July 1 of each year, each Executive agency shall submit a report to the Administrator on progress made toward achieving the goals established in the overall plan required by paragraph (1) of this subsection. The annual report shall include quantitative measures and accomplishment with respect to energy saving actions taken, the cost of these actions, the energy saved, the costs saved, and other benefits realized.

(3) The Administrator shall prepare a consolidated annual report on Federal government progress toward achieving the goals, including aggregate quantitative measures of accomplishment as well as suggested revisions to the ten-year plan, and submit the report to the President by August 15 of each year.

(h) Each agency required to submit a plan shall submit to the Director of the Office of Management and Budget with the agency's annual budget submission, and in accordance with procedures and requirements that the Director shall establish, estimates for implementation of the agency's plan. The Director of the Office of Management and Budget shall consult with the Administrator about the agency budget estimates.

(i) Each agency shall program its proposed energy conservation improvements of buildings so as to give the highest priority to the most cost-effective projects.

(j) No agency of the Federal government may enter into a lease or a commitment to lease a building the construction of which has not commenced by the effective date of this Order unless the building will likely meet or exceed the general goal set forth in subsection (b)(2).

(k) The provisions of this Section do not apply to housing units repossessed by the Federal Government.

§ 6202. Definitions

Transfer of Functions

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER I—DOMESTIC SUPPLY AVAILABILITY

Part A—Domestic Supply

§ 6211. Incentives to develop underground coal mines

[*See main edition for text of* (a)]

(b) Administrator's determinations prerequisite to loan guarantee; maximum guarantees; aggregate outstanding guaranteed loans; new underground coal mines

(1) A person may receive for a loan guarantee under subsection (a) of this section only if the Administrator determines that—

[*See main edition for text of* (A) *to* (C)]

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act [42 U.S.C. 7401 et seq.], and of any applicable implementation plan (as defined in section 110 of such Act) [42 U.S.C. 7410].

[*See main edition for text of* (E) *to* (H), (2), (3); *and* (c) *to* (e)]

References in Text

The Federal Coal Mine Health and Safety Act, referred to in subsec. (b)(1)(B), probably means the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which is classified generally to chapter 22 (§ 801 et seq.) of Title 30, Mineral Lands and Mining. The Act was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, § 101, Nov. 9, 1977, 91 Stat. 1290. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

The Clean Air Act, referred to in subsec. (b)(1)(D), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see short Title note set out under section 7401 of this title and Tables.

Codification

Subsec. (b)(1)(D) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of this title on enactment of Pub. L. 95-95.

Transfer of Functions

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6213. Certain lease bidding arrangements prohibited

Transfer of Functions

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to

the fostering of competition for Federal leases and to the implementation of alternative bidding systems authorized for the award of Federal leases were transferred to the Secretary of Energy by section 7152(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7172 of this title.

§ 6214. Production of oil or gas at the maximum efficient rate and temporary emergency production rate

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this chapter relating to the setting of rates for production of Federal leases to establish production rates for all Federal leases were transferred to the Secretary of Energy by section 7152(b) and (c) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7172 of this title.

PART B—STRATEGIC PETROLEUM RESERVE

§ 6233. Strategic Petroleum Reserve Office

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 6234 to 6241

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 6243 to 6245

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6246. Authorization of appropriations

There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 6239(a) of this title, for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 6234(a) or 6235(a)(2) of this title, whichever is applicable;

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan and to implement such plan which has taken effect pursuant to section 6239(a) of this title, including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve; and

(3) such funds for the fiscal year ending September 30, 1978, not to exceed $1,210,000,000, as are necessary to permit the acquisition and storage of petroleum products in the Strategic Petroleum Reserve, in accordance with the storage schedule set forth in the Strategic Petroleum Reserve Plan then in effect in excess of the minimum volume specified in section 6234(a) of this title, but not in excess of 500,000,000 barrels.

(As amended Pub. L. 95-70, § 4, July 21, 1977, 91 Stat. 277.)

AMENDMENTS

1977—Par. (3). Pub. L. 95-70 added par. (3).

SUBCHAPTER II—STANDBY ENERGY AUTHORITIES

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

§§ 6272 to 6274

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER III—IMPROVING ENERGY EFFICIENCY

PART A—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

§§ 6291 to 6299

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 6303 to 6308

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6309. Authorization of appropriations

[*See main edition for text of (a) and (b)*]

(c) Appropriations to Administrator for allocation

There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;

(2) $2,500,000 for fiscal year 1977; and

(3) $1,800,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a) of this section, may be allocated by the Administrator to the National Bureau of Standards.

(As amended Pub. L. 95-70, § 3, July 21, 1977, 91 Stat. 276.)

AMENDMENTS

1977—Subsec. (c)(2). Pub. L. 95-70, § 3(a), substituted "$2,500,000" for "$700,000".

Subsec. (c)(3). Pub. L. 95-70, § 3(b), substituted "$1,800,000" for "$700,000".

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

PART B—STATE ENERGY CONSERVATION PLANS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6851, 7005 of this title; title 12 section 1701z-8.

§ 6321. Congressional findings and declaration of purpose

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6322. State energy conservation plans

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6323, 6324, 6325, 6327, 7005 of this title.

§§ 6323 to 6325

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6326. Definitions

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6881 of this title; title 12 section 1701z-8.

§ 6327. Supplemental State energy conservation plans

TRANSFER OF FUNCTIONS

The Federal Energy Administration and the Energy Research and Development Administration were terminated and functions vested by law in their respective Administrators were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

PART C—INDUSTRIAL ENERGY CONSERVATION

§ 6341. Definitions

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6342. Energy efficiency program

TRANSFER OF FUNCTIONS

The Federal Energy Administration and the Energy Research and Development Administration were terminated and functions vested by law in their respective Administrators were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 6343 to 6346

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

PART D—OTHER FEDERAL ENERGY CONSERVATION MEASURES

§ 6361. Federal energy conservation programs

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The functions vested in the Administrator of the Federal Energy Administration under subsec. (b)(1)(B) of this section were transferred to the Secretary of Transportation by section 7159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7159 of this title.

§ 6362. Energy conservation policies and practices

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

§ 6381. Verification examinations

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

§ 6383. Accounting practices

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

PART B—GENERAL PROVISIONS

§ 6392. Conflict of interest

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6397. Transfer of authority upon termination of Federal Energy Administration

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6399. Intrastate natural gas

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

PART C—CONGRESSIONAL REVIEW

§ 6421. Procedure for Congressional review of Presidential requests to implement certain authorities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6234, 6239, 6261, 7172 of this title; title 15 sections 757, 760a, 760b, 2002; title 50 App. section 2403.

CHAPTER 79—SCIENCE AND TECHNOLOGY POLICY, ORGANIZATION AND PRIORITIES

SUBCHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

§ 6614. Policy planning; analysis; advice; establishment of advisory panel

TRANSFER OF FUNCTIONS

All functions vested in the Office of Science and Technology Policy and the Director thereof pursuant to subsec. (a)(2) of this section and sections 6615 and 6618 of this title were transferred to the Director of the National Science Foundation by section 5A of Reorg. Plan No. 1 of 1977, set out in the Appendix to Title 5, effective on or before Apr. 1, 1978, at such time as specified by the President.

The Intergovernmental Science, Engineering, and Technology Advisory Panel, established pursuant to this section, was abolished and its functions transferred to the President by Reorg. Plan No. 1 of 1977, § 5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President.

§ 6615. Five-year outlook

[*See main edition for text of* (a)]

(b) Annual revision

The Director of the National Science Foundation shall annually revise the five-year outlook developed under subsection (a) of this section so that it takes account of new problems, constraints and opportunities and changing national goals and circumstances, and shall extend the outlook so that it always extends five years into the future.

(c) Consultation with officials of departments and agencies having related programs and responsibilities

The Director of the National Science Foundation shall consult as necessary with officials of the departments and agencies having programs and responsibilities relating to the problems, constraints, and opportunities identified under subsections (a) and (b) of this section, in order to—

[*See main edition for text of* (1) *and* (2)]

(d) Consultation with officials of Office of Management and Budget and other appropriate elements of Executive Office of President

The Director of the National Science Foundation shall consult as necessary with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the problems, constraints, opportunities, and alternative actions identified under subsections (a), (b), and (c) of this section are fully considered in the development of the President's Budgets and legislative programs.

(As amended 1977 Reorg. Plan No. 1, § 5A, 42 F.R. 56101, 91 Stat. 1634.)

TRANSFER OF FUNCTIONS

"Director of the National Science Foundation" was substituted for "Office" in subsec. (b) and "Director of the Office" in subsecs. (c) and (d) pursuant to Reorg.

Plan No. 1 of 1977, § 5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President, which transferred all functions vested in the Office of Science and Technology Policy or the Director thereof under sections 6614(a)(2), 6615, and 6618 of this title to the Director of the National Science Foundation.

§ 6618. Science and technology report

(a) Transmittal to Congress; preparation; issues discussed

The President shall transmit annually to the Congress, beginning February 15, 1978, a Science and Technology Report (hereinafter referred to as the "Report") which shall be prepared by the Director of the National Science Foundation, with appropriate assistance from Federal departments and agencies and such consultants and contractors as the Director of the National Science Foundation deems necessary. The report shall draw upon the information prepared by the Director of the National Science Foundation pursuant to section 6615 of this title, and to the extent practicable, within the limitations of available knowledge and resources, discuss such issues as—

[*See main edition for text of (1) to (7)*]

(b) Use of relevant data available from National Science Foundation and other Government departments and agencies

In preparing the Report under subsection (a) of this section, the Director of the National Science Foundation shall make maximum use of relevant data available from the National Science Foundation and other Government departments and agencies.

(c) Availability as public document

The Director of the National Science Foundation shall insure that the Report, in the form approved by the President, is printed and made available as a public document.

(As amended 1977 Reorg. Plan No. 1, § 5A, 42 F.R. 56101, 91 Stat. 1634.)

TRANSFER OF FUNCTIONS

"Director of the National Science Foundation" was substituted for "Director" and "Office" in subsecs. (a), (b), and (c), pursuant to Reorg. Plan No. 1 of 1977, § 5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President, which transferred all functions vested in the Office of Science and Technology Policy or the Director thereof under sections 6614(a)(2), 6615, and 6618 of this title to the Director of the National Science Foundation.

SUBCHAPTER III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

§§ 6631 to 6635

TRANSFER OF FUNCTIONS

The President's Committee on Science and Technology, established pursuant to this subchapter, was abolished and its functions transferred to the President, by Reorg. Plan No. 1 of 1977, § 5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President.

SUBCHAPTER IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

§ 6651. Establishment, membership, and functions of Council

[*See main edition for text of (a) to (g)*]

(h) Establishment of subcommittees and panels; Subcommittee on Food and Renewable Resources

For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established. Among such standing subcommittees and panels of the Council shall be the Subcommittee on Food and Renewable Resources. This subcommittee shall review Federal research and development programs relevant to domestic and world food and fiber production and distribution, promote planning and coordination of this research in the Federal Government, and recommend policies and other measures concerning the food and agricultural sciences for the consideration of the Council. The subcommittee shall include, but not be limited to, representatives of each of the following departments or agencies; the Department of Agriculture, the Department of State, the Department of Defense, the Department of the Interior, the Department of Health, Education, and Welfare, the National Oceanic and Atmospheric Administration, the Energy Research and Development Administration, the National Science Foundation, the Environmental Protection Agency, and the Tennessee Valley Authority. The principal representatives of the Department of Agriculture shall serve as the chairman of the subcommittee.

(As amended Pub. L. 95-113, title XIV, § 1406, Sept. 29, 1977, 91 Stat. 986.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-113 added provisions relating to the Subcommittee on Food and Renewable Resources.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

The Federal Coordinating Council for Science, Engineering, and Technology, established pursuant to this section, was abolished and its functions transferred to the President by Reorg. Plan No. 1 of 1977, § 5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President.

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CHAPTER 80—PUBLIC WORKS DEVELOPMENT

SUBCHAPTER II—ANTIRECESSION PROVISIONS

Sec.
6736. Authorization of appropriations for Puerto Rico, Guam, American Samoa, and Virgin Islands [New].
(a) Authorizations for five calendar quarters beginning July 1, 1977.
(b) Allocations.
(c) Payments to local governments.

SUBCHAPTER I—LOCAL PUBLIC WORKS

§ 6701. Definitions

As used in this subchapter, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

(4) "public works project" includes a project for the transportation and provision of water to a drought-stricken area.

(As amended Pub. L. 95-28, title I, § 102, May 13, 1977, 91 Stat. 116.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-28, § 102(a), added reference to the Trust Territory of the Pacific Islands.
Par. (4). Pub. L. 95-28, § 102(b), added par. (4).

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95-30, title VI, § 601, May 23, 1977, 91 Stat. 164, provided that: "This title [enacting section 6736 of this title, amending sections 6722, 6723, 6724, 6727, and 6735 of this title, and repealing section 6726 of this title] may be cited as the 'Intergovernmental Antirecession Assistance Act of 1977'."

Section 101 of Pub. L. 95-28 provided that: "This title [amending this section and sections 6705, 6706, 6707, 6708, and 6710 of this title and enacting provisions set out as notes under this section and section 6710 of this title] may be cited as the 'Public Works Employment Act of 1977'."

PUBLIC WORKS INVESTMENT STUDY; PRELIMINARY REPORT; FINAL REPORT WITHIN 18 MONTHS AFTER MAY 13, 1977

Section 110 of Pub. L. 95-28 provided that:

"(a) The Secretary of Commerce is authorized and directed to study public works investment in the United States and the implications for the future of recent trends in such investment.

"(b) The study authorized by this section shall include, but not be limited to, the following:

"(1) The historical scope and nature of public works investment, including—

"(A) shifts in the types of public facilities constructed over the last thirty years and the implications of such shifts;

"(B) the patterns of regional distribution of investment;

"(C) the role of the Federal Government, States, and local communities in funding public facilities;

"(D) the impact upon unemployment in minority groups.

"(2) The proportion of the gross national product devoted to public works investment over the last thirty years.

"(3) Methods by which the aggregate need for public works can be determined.

"(4) How public works are financed and how financing arrangements affect the pattern and type of investment.

"(5) The level of maintenance or renovation of existing public facilities needed, compared to that provided.

"(c) The Secretary of Commerce shall submit to Congress a report with respect to its findings and recommendations no later than eighteen months after the date of enactment of this section [May 13, 1977]. A preliminary report putting forth the study design shall be submitted to Congress within four months after the date of enactment of this section."

§ 6705. Limitations on use of grants

[See main edition for text of (a) to (d)]

(e) Performance of projects by State or local governments prohibited; competitive bidding; illegal aliens

(1) No part of the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of any public works project for which a grant is made under this chapter after May 13, 1977, shall be performed directly by any department, agency, or instrumentality of any State or local government. Construction of each such project shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(2) No grant shall be made under this chapter for any local public works project unless the State or local government applying for such grant submits with its application a certification acceptable to the Secretary that no contract will be awarded in connection with such project to any bidder who will employ on such project any alien in the United States in violation of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(f) Use of products made in the United States; minority business enterprises

(1)(A) Notwithstanding any other provision of law, no grant shall be made under this chapter for any local public works project unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been

manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

(B) Subparagraph (A) of this paragraph shall not apply in any case where the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(2) Except to the extent that the Secretary determines otherwise, no grant shall be made under this chapter for any local public works project unless the applicant gives satisfactory assurance to the Secretary that at least 10 per centum of the amount of each grant shall be expended for minority business enterprises. For purposes of this paragraph, the term "minority business enterprise" means a business at least 50 per centum of which is owned by minority group members or, in case of a publicly owned business, at least 51 per centum of the stock of which is owned by minority group members. For the purposes of the preceding sentence, minority group members are citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts.

(g) Accessibility standards for handicapped and elderly

No grant shall be made under this chapter for any project for which the applicant does not give assurances satisfactory to the Secretary that the project will be designed and constructed in accordance with the standards for accessibility for public buildings and facilities to the handicapped and elderly under the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (42 U.S.C. 4151 et seq.). The Architectural and Transportaiton Barriers Compliance Board established by the Rehabilitation Act of 1973 (P.L. 93-112) [29 U.S.C. 701 et seq.] is authorized to insure that any construction and renovation done pursuant to any grant made under this chapter complies with the accessibility standards for public bunldings [1] and facilities issued under the Act of August 12, 1968.

(As amended Pub. L. 95-28, title I, § 103, May 13, 1977, 91 Stat. 116.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (e)(2), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Act of August 12, 1968, entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", referred to in subsec. (g), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, popularly known as the Architectural Barriers Act of 1968, which is classified generally to chapter 51 (§ 4151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (g), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

1977—Subsecs. (e) to (g). Pub. L. 95-28 added subsecs. (e) to (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6707 of this title.

§ 6706. Implementing rules, regulations, and procedures; criteria; employment of disabled and Vietnam-era veterans; determination of applications for grants

The Secretary shall, not later than thirty days after July 22, 1976, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this chapter. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary, in consultation with the Secretary of Labor, and consistent with existing applicable collective bargaining agreements and practices, shall promulgate regulations to assure special consideration to the employment in projects under this chapter of qualified disabled veterans (as defined in section 2011(1) of title 38) and qualified Vietnam-era veterans (as defined in section 2011(2)(A) of such title 38). The Secretary shall make a final determination with respect to each application for a grant submitted to him under this chapter not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

(As amended Pub. L. 95-28, title I, § 104, May 13, 1977, 91 Stat. 117.)

AMENDMENTS

1977—Pub. L. 95-28 added provision directing the Secretary to promulgate regulations to assure special consideration to the employment in projects of quali-

[1] So in original. Probably should be "buildings".

fied disabled veterans and qualified Vietnam-era veterans.

§ 6707. Priority and amounts of projects

(a) Allocation of appropriated funds; Indian tribes and Alaska Native villages; prior applications; unemployment ratio; limits on grants for any one State; territories

The Secretary shall allocate funds appropriated after May 13, 1977, under section 6710 of this title as follows:

(1) 2½ per centum of such funds shall be set aside and shall be expended only for grants for public works projects under this chapter to Indian tribes and Alaska Native villages. None of the remainder of such funds shall be expended for such grants to such tribes and villages.

(2) After the set aside required by paragraph (1) of this subsection, $70,000,000 shall be set aside and expended only for grants for any public works project the application for a grant for which was made under this chapter after July 22, 1976, and before December 24, 1976, and which application was not received, was not considered, or was rejected solely because of an error by an officer or employee of the United States. Any allocation made to an applicant pursuant to regulation shall be reduced by the amount of any grant made to such applicant under this paragraph.

(3) After the set asides required by paragraphs (1) and (2) of this subsection, 65 per centum of such funds shall be allocated among the States on the basis of the ratio that the number of unemployed persons in each State bears to the total number of unemployed persons in all the States and 35 per centum of such funds shall be allocated among those States with an average unemployment rate for the preceding twelve-month period in excess of 6.5 per centum on the basis of the relative severity of unemployment in each such State, except that (A) no State shall be allocated less than three-quarters of one per centum or more than 12½ per centum of such funds for local public works projects within such State, except that in the case of Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, not less than one-half of one per centum in the aggregate shall be granted for such projects in all four of these jurisdictions, and (B) no State whose unemployment data was converted for the first time in 1976 to the benchmark data of the current population survey annual average compiled by the Bureau of Labor Statistics shall receive a percentage of such funds less than the percentage of funds allocated to such State under this chapter from funds appropriated to carry out this chapter prior to May 13, 1977.

(b) Local government projects; energy conservation; endorsement of project by general purpose local government; projects requested by school districts

(1) In making grants under this chapter, the Secretary shall give priority and preference to public works projects of local governments.

(2) In making grants for projects for construction, renovation, repair, or other improvement of buildings, the Secretary shall also give consideration as between such building projects to those projects which will result in conserving energy, including, but not limited to, projects to redesign and retrofit existing public facilities for energy conservation purposes, and projects using alternative energy systems.

(3) In making grants under this chapter, the Secretary shall also give priority and preference to any public works project requested by a State or by a special purpose unit of local government which is endorsed by a general purpose local government within such State.

(4) A project requested by a school district shall be accorded the full priority and preference to public works projects of local governments provided in paragraph (1).

(c) Unemployment rates; priority; States receiving minimum allocations

In making grants under this chapter, if for the twelve most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the twelve most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the twelve most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization. The Secretary may waive the application of the first sentence of this subsection to any State which receives a minimum allocation pursuant to paragraph (3) of subsection (a) of this section.

(d) Priorities for projects in State or localities with two or more projects

Whenever a State or local government submits applications for grants under this chapter for two or more projects, such State or local government shall submit as part of such applications its priority for each such project.

(e) Community or neighborhood basis of unemployment rates

The unemployment rate of a local government shall, for the purposes of this chapter, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project to be constructed in such community or neighborhood.

(f) Repealed. Pub. L. 95-28, title I, § 107(e), May 13, 1977, 91 Stat. 119

[*See main edition for text of* (g)]

(h) Applications not submitted on or before December 23, 1976; grants prohibited; exceptions

(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not consider or approve or make a grant for any project for which any application was not submitted for a grant under this chapter on or before December 23, 1976.

(2) The Secretary may receive applications for grants for projects under this chapter—

(A) from the Trust Territory of the Pacific Islands;

(B) from Indian tribes and Alaska Native villages;

(C) from any applicant to use any allocation which may be made pursuant to regulation, to the extent necessary to expend such allocation, if a sufficient number of applications were not submitted on or before December 23, 1976, to use such allocation.

(i) Substitution of projects to alleviate drought or other emergency or disaster-related conditions or damage

The Secretary may allow any applicant which has received a grant for a project under this chapter to substitute one or more projects for such project if in the judgment of the Secretary (1) the Federal cost in the aggregate of such substituted project or projects does not exceed such grant, (2) such substituted project or projects comply with section 6705(d) of this title, and (3) such substituted project or projects will in fact aid in alleviating drought or other emergency or disaster-related conditions or damage. Section 6705(a) of this title shall not apply to projects substituted under this subsection.

(j) Private nonprofit health care or rehabilitation facilities

Notwithstanding subsection (h)(1) of this section, grants may be made from appropriations made under section 6710 of this title after September 30, 1977, to States or local governments for projects for the construction, renovation, repair, or other improvements of health care or rehabilitation facilities owned and operated by private nonprofit entities.

(As amended Pub. L. 95-28, title I, §§ 105-107, May 13, 1977, 91 Stat. 117, 118.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-28, § 105, added par. (1) and the introductory provisions preceding par. (1), par. (2), and, in par. (3), the introductory provisions preceding cl. (A) and cl. (B), designated existing provisions as cl. (A) of par. (3) and, in such cl. (A) as so designated, added reference to the Trust Territory of the Pacific Islands and substituted "three-quarters of one percentum" for "one-half of one percentum" and "of such funds" for "of all amounts appropriated to carry out this subchapter".

Subsec. (b). Pub. L. 95-28, § 106, designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (c). Pub. L. 95-28, § 107(a), (b), substituted "twelve most recent consecutive months" for "three most recent consecutive months" and authorized the Secretary to waive the application of the first sentence of the subsection to any State which receives a minimum allocation pursuant to subsec. (a)(3) of this section.

Subsec. (d). Pub. L. 95-28, § 107(c), substituted provisions directing State or local governments that submit two or more projects to submit as part of their applications the priorities assigned to each project for provisions directing that seventy percentum of all amounts appropriated to carry out this chapter be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsec. (c) of this section, with the remaining thirty percentum available for public works projects submitted by State or local governments in other classifications of priority.

Subsec. (e). Pub. L. 95-28, § 107(d), substituted "to be constructed in such community or neighborhood" for "of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood".

Subsec. (f). Pub. L. 95-28, § 107(e), struck out subsec. (f) which directed that, in determining the unemployment rate of a local government for purposes of this section, the unemployment in those adjoining areas from which the labor force for such project might be drawn were to be taken into consideration.

Subsecs. (h) to (j). Pub. L. 95-28, § 107(f), added subsecs. (h) to (j).

§ 6708. Wage standards for laborers and mechanics; enforcement

All laborers and mechanics employed on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance under this chapter for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of title 40.

(As amended Pub. L. 95-28, title I, § 108, May 13, 1977, 91 Stat. 119.)

AMENDMENTS

1977—Pub. L. 95-28 substituted "All laborers and mechanics employed" for "All laborers and mechanics employed by contractors or subcontractors".

§ 6710. Authorization of appropriations

There is authorized to be appropriated not to exceed $6,000,000,000 for the period ending December 31, 1978, to carry out this chapter.

(As amended Pub. L. 95-28, title I, § 109, May 13, 1977, 91 Stat. 119.)

AMENDMENTS

1977—Pub. L. 95-28 substituted "$6,000,000,000 for the period ending December 31, 1978" for "$2,000,000,000 for the period ending September 30, 1977".

IMMEDIATE INITIATION OF CONSTRUCTION ON CERTAIN PROJECTS

Section 111 of Pub. L. 95-28 provided that: "The Secretary of Agriculture and the Secretary of the Interior shall immediately initiate the construction of those Federal public works projects (A) which are the responsibility of their respective departments, (B) which have been authorized, and (C) which can be commenced within 60 days of the date of enactment of this section [May 13, 1977] and completed no later than the 180th day after commencement of construction. No funds authorized by section 111 of the Local Public Works Capital Development and Investment Act of 1976 (Public Law 94-369) [this section] may be used to carry out this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6707 of this title.

SUBCHAPTER II—ANTIRECESSION PROVISIONS

§ 6722. Financial assistance

[*See main edition for text of* (a)]

(b) Authorization of appropriations

Subject to the provisions of subsections (c) and (d) of this section, there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977) for the purpose of payments under this subchapter—

(1) $125,000,000, plus

(2) $30,000,000 multiplied by the number of whole one-tenth percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such quarter exceeded 6 per centum.

(c) Aggregate authorization

In no case shall the aggregate amount authorized to be appropriated under the provisions of subsection (b) of this section for the five successive calendar quarters beginning with the calendar quarter which begins July 1, 1977, exceed $2,250,000,000.

[*See main edition for text of* (d)]

(As amended Pub. L. 95-30, title VI, § 602, May 23, 1977, 91 Stat. 164.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-30, § 602(a), substituted "July 1, 1977" for "July 1, 1976" in the introductory provisions preceding par. (1) and in par. (2) substituted "$30,000,000 multiplied by the number of whole one-tenth" for "$62,500,000 multiplied by the number of one-half" and "such quarter exceeded 6 per centum" for "such calendar quarter exceeded 6 percent".

Subsec. (c). Pub. L. 95-30, § 602(b), substituted "five successive calendar quarters beginning with the calendar quarter which begins July 1, 1977, exceed $2,250,000,000" for "five calendar quarters beginning with the calendar quarter which begins July 1, 1976, exceed $1,250,000,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6723, 6736 of this title.

§ 6723. Allocation of amounts

[*See main edition for text of* (a)]

(b) State allocation; percentage; definitions

[*See main edition for text of* (1) *and* (2)]

(3) For the purposes of this section—

[*See main edition for text of* (A) *to* (C)]

(D) the State revenue sharing amount is the amount determined under section 1226 of title 31 for the most recently completed entitlement period, as defined under section 1261(b) of title 31.

(c) Local government allocation; percentage; definitions; special limitation

(1) The Secretary shall allocate from amounts reserved under subsection (a)(2) of this section an amount for the purpose of making payments to each local government, subect to the provisions of paragraph (4), equal to the total amount reserved under such subsection for calendar quarter multiplied by the local government percentage.

[*See main edition for text of* (2)]

(3) For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriated calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary (in the case of a local government for which the Secretary of Labor cannot determine a local unemployment rate, he shall assign such local government the local unemployment rate of the smallest unit or subunit of local government for which he has determined a local unemployment rate and within the jurisdiction of which such local government is located, unless—

(i) the Governor of the State in which such local government is located has provided the Secretary of Labor with a local unemployment rate for such local government, and

(ii) the Secretary of Labor finds that such local unemployment rate provided by the Governor has been determined in a manner consistent with the procedures and methodologies used by the Secretary of Labor in determining local unemployment rates,

in which case the Secretary of Labor shall assign such local government the local unemployment rate provided by such Governor);

(C) the local revenue sharing amount is the amount determined under section 1227 of title 31 for the most recently completed entitlement period, as defined under section 1261(b) of title 31;

(D) the term "local government" means the government of a county, municipality, town-

ship, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes), and

(ii) performs substantial governmental functions. Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

(4) If the amount which would be allocated to any unit of local government under this subsection is less than $100, then no amount shall be allocated for such unit of local government under this subsection.

(As amended Pub. L. 95-30, title VI, § 603(a)-(h), May 23, 1977, 91 Stat. 165, 166.)

AMENDMENTS

1977—Subsec. (b)(3)(D). Pub. L. 95-30, § 603(a), substituted "for the most recently completed entitlement period, as defined under section 1261(b) of title 31" for "for the one-year period beginning on July 1, 1975".

Subsec. (c)(1). Pub. L. 95-30, § 603(b), substituted "paragraph (4)" for "paragraphs (3) and (5)".

Subsec. (c)(3). Pub. L. 95-30, § 603(c) to (h), struck out former subsec. (c)(3) which had set out special rules for local governments other than identifiable local governments, redesignated former subsec. (c)(4) as (c)(3) and, in subsec. (c)(3) as so redesignated, substituted "determined or assigned" for "determined" in subpar. (B), substituted provisions covering local governments for which the Secretary of Labor cannot determine a local unemployment rate for provisions covering local governments treated as one local government in subpar. (B), substituted "for the most recently completed entitlement period, as defined under section 1261(b) of title 31" for "for the one-year period beginning July 1, 1975" in subpar. (C), struck out parenthetical provisions covering local governments treated as one local government in subpar. (C), struck out former subpar. (D) which had defined "identifiable local government", redesignated former subpar. (E) as (D), substituted "Bureau of the Census" for "Social and Economic Statistics Administration" in cl. (i) of subpar. (D) as so redesignated, and struck out provisions which had directed the Secretary of Labor to make determinations with respect to rates of unemployment for the purposes of title VI of the Comprehensive Employment and Training Act of 1973.

Subsec. (c)(4). Pub. L. 95-30, § 603(c), redesignated former subsec. (c)(5) as (c)(4). Former subsec. (c)(4) was redesignated (c)(3) and amended.

Subsec. (c)(5). Pub. L. 95-30, § 602(c), redesignated former subsec. (c)(5) as (c)(4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6730, 6736 of this title.

§ 6724. Uses of payments

Each State and local government shall use payments made under this subchapter for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support payments made under this subchapter for the acquisition of supplies and materials or for construction, except for normal supplies or repairs necessary to maintain basic services.

(As amended Pub. L. 95-30, title VI, § 604, May 23, 1977, 91 Stat. 166.)

AMENDMENTS

1977—Pub. L. 95-30 substituted "or for construction, except for normal supplies or repairs necessary to maintain basic services" for "and for construction, unless such supplies and materials or construction are to maintain basic services".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6725, 6736 of this title.

§ 6725. Statement of assurances as prerequisite for payments; rules governing time and manner of filing; contents of statement

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6730, 6732, 6736 of this title.

§ 6726. Repealed. Pub. L. 95-30, title VI, § 603(i), May 23, 1977, 91 Stat 166

Section, Pub. L. 94-369, title II, § 206, July 22, 1976, 90 Stat. 1007, provided for the filing of optional state allocation plans.

§ 6727. Nondiscrimination

(a)(1) No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption, from such prohibition, as provided in the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], shall also apply to any such program or activity.

(2)(A) The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this subchapter.

(B) The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

(b) The provisions of subsection (a) of this section shall be enforced by the Secretary in

the same manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1242, 1244, and 1245] to enforce compliance with section 122(a) of such Act [31 U.S.C. 1242(a)]. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this subchapter as the Attorney General has under sections 122 (g) and (h) and 124(c) of such Act [31 U.S.C. 1242(g), (h) and 1244(c)] with respect to funds made available under that Act [31 U.S.C. 1221 et seq.]. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of such Act [31 U.S.C. 1242(a)], including the rights provided under section 124(c) of such Act [31 U.S.C. 1244(c)].

(As amended Pub. L. 95-30, title VI, § 605, May 23, 1977, 91 Stat. 166.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), is Pub. L. 94-135, title III, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (§ 2000a et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968, referred to in subsec. (a)(1), is Pub. L. 90-284, title VIII, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I of chapter 45 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

"That Act", referred to in subsec. (b), means the State and Local Fiscal Assistance Act of 1972, Pub. L. 92-512, title I, Oct. 20, 1972, 86 Stat. 919, as amended, which is classified principally to chapter 24 (§ 1221 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of Title 31 and Tables.

AMENDMENTS

1977—Pub. L. 95-30 rewrote the section in its entirety adding reference to discriminatory practices prohibited by the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973 and generally restructuring the enforcement and remedies provisions to incorporate the procedures of the Secretary and of the Attorney General under the State and Local Fiscal Assistance Act of 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6725, 6736 of this title.

§ 6728. Wage standards for laborers and mechanics; enforcement

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6725, 6736 of this title.

§ 6729. Reports to Secretary by States and local governments; contents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6725, 6736 of this title.

§ 6730. Reports

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6736 of this title.

§ 6731. Economization by State and local governments; statement of assurances, etc., required

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6736 of this title.

§ 6732. Withholding of payments for failure to comply with statement of assurances; procedures applicable

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6733, 6736 of this title.

§ 6733. Reports to Congress by Secretary; contents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6736 of this title.

§ 6735. Program studies and recommendations; evaluation; countercyclical study

[*See main edition for text of* (a) *and* (b)]

(c) The Secretary shall, in consultation with the Secretary of Commerce, conduct an investigation of—

(1) the extent to which allocations of funds provided under this chapter might be more precisely related to true economic conditions by the use of data on aggregate declines in private real wages and salaries;

(2) the extent to which other factors, such as relative tax effort, should also be made part of the allocation system provided by this chapter; and

(3) the availability and reliability of data concerning Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and the extent to which such territories may properly be made part of the regular allocation system applicable to the several States.

The results of such investigation shall be submitted to the Congress not later than March 1, 1978, in order that such results may be available during congressional consideration of any extension of this chapter beyond the fiscal year ending September 30, 1978.

(As amended Pub. L. 95-30, title VI, § 606, May 23, 1977, 91 Stat. 167.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-30 added subsec. (c).

§ 6736. Authorization of appropriations for Puerto Rico, Guam, American Samoa, and Virgin Islands

(a) Authorizations for five calendar quarters beginning July 1, 1977

There is hereby authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977) for the purpose of making payments under this subchapter to Puerto Rico, Guam, American Samoa, and the Virgin Islands, an amount equal to 1 percent of the amount authorized for each such quarter under section 6722(b) of this title.

(b) Allocations

(1) The Secretary shall allocate from the amount authorized under subsection (a) of this section an amount for the purpose of making payments to such governments equal to the total authorized for the calendar quarter multiplied by the applicable territorial percentage.

(2) For the purposes of this subsection, the applicable territorial percentage is equal to the quotient resulting from the division of the territorial population by the sum of the territorial population for all territories.

(3) For purposes of this section—

(A) The term "territory" means Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(B) The term "territorial population" means the most recent population for each territory as determined by the Bureau of Census.

(C) The provisions of sections 6723(c)(4), 6724, 6725, 6726, 6727, 6728, 6729, 6730, 6731, 6732, and 6733 of this title shall apply to the funds authorized under this section.

(c) Payments to local governments

The governments of the territories are authorized to make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.

(Pub. L. 94-369, title II, § 216, as added Pub. L. 95-30, title VI, § 607, May 23, 1977, 91 Stat. 167.)

REFERENCES IN TEXT

Section 6726 of this title, referred to in subsec. (b)(3)(C), was repealed by Pub. L. 95-30, title VI, § 603(i), May 23, 1977, 91 Stat. 166.

CHAPTER 81—ENERGY CONSERVATION AND RESOURCE RENEWAL

SUBCHAPTER I—ELECTRIC UTILITY RATE DESIGN INITIATIVES

§ 6801. Congressional findings and purpose

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6802. Definitions

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 6803 to 6806

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER II—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7154 of this title.

§ 6832. Definitions

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 6833. Development and promulgation of energy conservation performance standards for new commercial and residential buildings

[*See main edition for text of* (a) *and* (b)]

(c) Periodic review and updating of standards

The Secretary, in consultation with the Administrator, the Secretary of Housing and Urban Development, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a) of this section.

[*See main edition for text of* (d)]

(As amended Pub. L. 95-91, title VII, § 709(e)(1), Aug. 4, 1977, 91 Stat. 608.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-91 added "the Secretary of Housing and Urban Development," following "the Administrator,".

TRANSFER OF FUNCTIONS

The functions vested in the "Secretary", (meaning the Secretary of Housing and Urban Development) under this section to develop and promulgate energy conservation standards for new buildings were transferred to the Secretary of Energy by section 7154(a) of this title.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6834, 6839, 7154 of this title.

§ 6839. Support activities necessary or appropriate to develop and implement performance standards

The Secretary, in cooperation with the Administrator, Secretary of Housing and Urban Development, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 6833(a) of this title and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

(As amended Pub. L. 95-91, title VII, § 709(e)(2), Aug. 4, 1977, 91 Stat. 608.)

TRANSFER OF FUNCTIONS

The functions vested in the "Secretary" (meaning the Secretary of Housing and Urban Development) under section 6833 of this title to develop and promulgate energy conservation standards for new buildings were transferred to the Secretary of Energy by section 7154(a) of this title.

AMENDMENTS

1977—Pub. L. 95-91 added "Secretary of Housing and Urban Development," following "the Administrator,".

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER III—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

§ 6862. Definitions

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§§ 6863 to 6871

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

PART B—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

§ 6881. Energy resource and renewable-resource obligation guarantee program

[*See main edition for text of (a) to (f)*]

(g) Limitation on aggregate outstanding principal amount of obligations guaranteed; time limitation on guarantees and commitments to guarantee; authorization of appropriations

[*See main edition for text of (1) and (2)*]

(3) There is authorized to be appropriated to carry out the provisions of this part, including administrative costs, but not for the payment of amounts to be paid under subsection (f) of this section—

(A) for the fiscal year ending September 30, 1977, not to exceed $1,836,000; and

(B) for the fiscal year ending September 30, 1978, not to exceed $4,950,000.

[*See main edition for text of (h) and (i)*]

(As amended Pub. L. 95-70, § 5, July 21, 1977, 91 Stat. 277.)

AMENDMENTS

1977—Subsec. (g)(3). Pub. L. 95-70 added subsec. (g)(3).

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

PART C—MISCELLANEOUS PROVISIONS

§§ 6891, 6892

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CHAPTER 82—SOLID WASTE DISPOSAL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4365 of this title; title 30 section 1292.

SUBCHAPTER I—GENERAL PROVISIONS

§ 6901. Congressional findings

[*See main edition for text of (a)*]

(b) Environment and health

The Congress finds with respect to the environment and health, that—

[*See main edition for text of (1) and (2)*]

(3) as a result of the Clean Air Act [42 U.S.C. 7401 et seq.], the Water Pollution Control Act [33 U.S.C. 1251 et seq.], and other Federal and State laws respecting public health and the environment, greater amounts of solid waste (in the form of sludge and

other pollution treatment residues) have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health;

[*See main edition for text of* (4) *to* (6); (c), (d)]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(3), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

CODIFICATION

Subsec. (b)(3) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of this title, on enactment of Pub. L. 95-95.

§ 6905. Application of chapter and integration with other Acts

[*See main edition for text of* (a)]

(b) Integration with other acts

The Administrator shall integrate all provisions of this chapter for purposes of administration and enforcement and shall avoid duplication, to the maximum extent practicable, with the appropriate provisions of the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], the Safe Drinking Water Act [42 U.S.C. 300f et seq.], the Marine Protection, Research and Sanctuaries Act of 1972 [33 U.S.C. 1401 et seq.], and such other Acts of Congress as grant regulatory authority to the Administrator. Such integration shall be effected only to the extent that it can be done in a manner consistent with the goals and policies expressed in this chapter and in the other acts referred to in this subsection.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

CODIFICATION

Subsec. (b) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of this title, on enactment of Pub. L. 95-95.

§ 6907. Solid waste management information and guidelines

(a) Guidelines

Within one year of October 21, 1976, and from time to time thereafter, the Administrator shall, in cooperation with appropriate Federal, State, municipal, and intermunicipal agencies, and in consultation with other interested persons, and after public hearings, develop and publish suggested guidelines for solid waste management. Such suggested guidelines shall—

[*See main edition for text of* (1)]

(2) not later than two years after October 21, 1976, describe levels of performance, including appropriate methods and degrees of control, that provide at a minimum for (A) protection of public health and welfare; (B) protection of the quality of ground waters and surface waters from leachates; (C) protection of the quality of surface waters from runoff through compliance with effluent limitations under the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.]; (D) protection of ambient air quality through compliance with new source performance standards or requirements of air quality implementation plans under the Clean Air Act, as amended [42 U.S.C. 7401 et seq.]; (E) disease and vector control; (F) safety; and (G) esthetics; and

[*See main edition for text of* (3)]

Where appropriate, such suggested guidelines also shall include minimum information for use in deciding the adequate location, design, and construction of facilities associated with solid waste management practices, including the consideration of regional, geographic, demographic, and climatic factors.

[*See main edition for text of* (b)]

REFERENCES IN TEXT

The Clean Air Act, as amended, referred to in subsec. (a)(2), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

CODIFICATION

Subsec. (a)(2) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of this title, on enactment of Pub. L. 95-95.

SUBCHAPTER IV—STATE OR REGIONAL SOLID WASTE PLANS

§ 6949. Rural communities assistance

(a) In general

The Administrator shall make grants to States to provide assistance to municipalities with a population of five thousand or less, or counties with a population of ten thousand or

less or less than twenty persons per square mile and not within a metropolitan area, for solid waste management facilities (including equipment) necessary to meet the requirements of section 6945 of this title or restrictions on open burning or other requirements arising under the Clean Air Act [42 U.S.C. 7401 et seq.] or the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]. Such assistance shall only be available—

[*See main edition for text of (1) to (3); (b) to (d)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of this title. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

CODIFICATION

Subsec. (a) is set out in part in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of this title, on enactment of Pub. L. 95-95.

SUBCHAPTER VIII—RESEARCH, DEVELOPMENT, DEMONSTRATION, AND INFORMATION

§ 6981. Research, demonstration, training, and other activities

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration and the Federal Energy Administration were terminated and functions vested by law in their respective Administrators were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

CHAPTER 83—ENERGY EXTENSION SERVICE [NEW]

Sec.
7001. Congressional declaration and statement of purposes.
7002. Establishment of Energy Extension Service in Energy Research and Development Administration.
(a) Director; Deputy Director.
(b) Compensation of Director.
(c) Duties of Director.
7003. Development and implementation of comprehensive program.
(a) Energy conserving opportunities; techniques, materials, and equipment.
(b) Technical support institutes in each State.
(c) Implementation.
(d) Minimum conflict with existing services in private sector.
7004. Initial implementation; State energy extension service plans.
7005. National implementation; State energy extension service plans.
(a) Invitation to non-participating States to submit plans.
(b) Guidelines for preparation and submission of State plans.
(c) Invitation to Governors of non-participating States to submit plans after effective date of guidelines.
(d) Approval of State plans.
(e) Revision of submitted plans.
(f) Development of State plans by Director; use of existing offices, personnel, and delivery mechanisms; revisions; transmittal of Director-developed plans.
(g) Annual review of plan implementation; remedial action; termination of Federal assistance.
(h) State energy extension service plans to complement or supplement State energy conservation plans submitted under Energy Policy and Conservation Act.
(i) Financial assistance; information and technical assistance.
(j) Relationships between States and educational institutions not to be modified or altered.
7006. Administration.
(a) Regulations and directives.
(b) Consultation and cooperation.
(c) Dissemination of information.
(d) Interagency Advisory Group.
7007. Energy education, extension, and information.
(a) Program and plan; consultation; coordination with other activities.
(b) Elements of program and plan.
(c) Transmittal of program and plan to President and Congress; annual revision.
7008. National Energy Extension Service Advisory Board.
(a) Establishment; membership; chairman; reimbursement for expenses.
(b) Review and evaluation functions.
(c) Report to Administrator, Director, and Congress.
7009. Records.
7010. Authorization of appropriations.
7011. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5813 of this title.

§ 7001. Congressional declaration and statement of purposes

(a) The Congress hereby declares—

(1) that the general welfare and the common defense and security require a greater public knowledge of energy conservation opportunities;

(2) that scientific identification and practical demonstration of specifically designed energy conservation opportunities, the dissemination of information relating thereto, and the prompt delivery and acceptance of specific energy conservation opportunities require a national effort;

(3) that the national effort required to develop, demonstrate, and encourage acceptance and adoption of energy conservation opportunities should be coordinated at the Fed-

eral level by the Energy Research and Development Administration;

(4) that a special effort must be made to develop and demonstrate practical alternative energy technologies such as solar heating and cooling;

(5) that successful implementation of energy conservation and new energy technologies will require both public awareness and individual capability to use the conservation opportunities and new technology;

(6) that this required awareness and capability can only be achieved on a national basis by an active outreach effort;

(7) that existing energy outreach programs are underfunded;

(8) that any Federal outreach program should be organized with the States as full participants, and each State should plan and coordinate the outreach activities within the State, optimizing the use of existing outreach capabilities;

(9) that Federal assistance should be provided for energy outreach activity, including coordinated energy outreach activities and technical support in each State for such efforts;

(10) that the Energy Research and Development Administration should provide overall national direction and review of federally assisted State energy outreach programs.

(b) The Congress declares that the purposes of this chapter are—

(1) to establish a positive energy outreach program directed toward small business and individual energy consumers and the organizations that influence energy consumption;

(2) to stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical support of energy conservation efforts, including energy outreach activities of States.

(Pub. L. 95-39, title V, § 502, June 3, 1977, 91 Stat. 191.)

SHORT TITLE

Section 501 of Pub. L. 95-39, title V, provided that: "This title [enacting this chapter and amending sections 5813 and 5818 of this title] may be cited as the 'National Energy Extension Service Act'."

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 7002. Establishment of Energy Extension Service in Energy Research and Development Administration

(a) Director; Deputy Director

There is established in the Energy Research and Development Administration an office to be designated as the Energy Extension Service (hereinafter in this chapter referred to as the "Service"). The Service shall be headed by a Director who shall be appointed by and directly responsible to the Administrator of the Energy Research and Development Administration (hereinafter referred to as the "Administrator"). The Director shall be a person who by reason of training, experience, and attainments is exceptionally qualified to implement the programs of the Service. There shall be in the Service a Deputy Director who shall be appointed by the Administrator, who shall have such functions, powers, and duties as may be prescribed from time to time by the Director, and who shall act for, and exercise the powers of, the Director during the absence or disability of, or in the event of a vacancy in the office of, the Director.

(b) Compensation of Director

The Director shall receive basic pay at the rate provided for level IV of the Executive Schedule in section 5315 of title 5.

(c) Duties of Director

The Director shall have overall responsibility for the national direction of the comprehensive program developed under section 7003 of this title and of all other activities conducted under this chapter and shall annually review the programs of the various States under sections 7004 and 7005 of this title to insure that they are effectively promoting the realization of the objectives of this chapter.

(Pub. L. 95-39, title V, § 503, June 3, 1977, 91 Stat. 192.)

CODIFICATION

This chapter, referred to in subsec. (a), in the original read "this Act", probably meaning the National Energy Extension Service Act, which is title V of Pub. L. 95-39 which is classified principally to this chapter.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 7003. Development and implementation of comprehensive program

(a) Energy conserving opportunities, techniques, materials, and equipment

The Service shall develop and implement a comprehensive program for the identification, development, and practical demonstration of energy conserving opportunities, techniques, materials, and equipment, including opportunities, techniques, or methods responsive to local needs or resources, and alternative energy technologies such as solar heating and cooling, for—

(1) agricultural, commercial, and small business operations, and

(2) new and existing residential, commercial, and agricultural buildings or structures.

Such program shall provide for technical assistance, instruction, information, dissemination, and practical demonstrations in energy conservation opportunities, and shall provide an active interface with end use energy consumers at the local level for the purpose of offering active outreach assistance and affording a communication channel for end user technology requirements. Such outreach assistance shall be provided by means of such appropriate local of-

fices, including metropolitan city offices, county agents, and technical staff assistants, and may be required to provide energy extension services.

(b) Technical support institutes in each State

The program authorized under subsection (a) of this section shall permit each State to establish a technical support institute at one or more colleges or universities designated by the Governor of that State. Each such institute shall—

(1) have as its purpose to assist in implementation of the State energy extension service; and

(2) provide such analyses and technical support as is necessary for effective State energy extension service activities.

(c) Implementation

The comprehensive program developed under subsection (a) of this section shall be implemented and carried out within each State pursuant to sections 7004 and 7005 of this title.

(d) Minimum conflict with existing services in private sector

The Director shall take such steps as may be necessary to insure that the comprehensive program is implemented in a manner which minimizes conflict with existing services in the private sector of the economy that are similar to those provided under such program.

(Pub. L. 95-39, title V, § 504, June 3, 1977, 91 Stat. 192.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7002, 7004, 7005, 7007, 7008 of this title.

§ 7004. Initial implementation; State energy extension service plans

(a) The Director shall within forty-five days after June 3, 1977, invite the Governor of each State through competitive procurement to submit a plan for the conduct of energy extension service activities as described in section 7003 of this title throughout such State including provisions for appropriate technical support within such State of such activities, to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

(1) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other public outreach programs.

(b) Each State shall be accorded not more than ninety days to submit a plan to the Director under subsection (a) of this section. The Director shall promptly review such proposals and shall, with the approval of the Administrator, and subject to the limitations of section 7010(c)(1) and (2) of this title, provide funds adequate for the support of the proposed energy outreach plan of a State if the Director finds that, such plan—

(1) meets the objectives of this chapter;

(2) was prepared with opportunity for input from State, county, and local officials, State universities, colleges and community colleges, cooperative extension services, community service action agencies, and other public or private organizations involved in active energy outreach programs;

(3) consistent with the objectives and requirements of this chapter, makes optimum use of existing outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, college, or other organizations' programs for energy information, education, or technology transfer which have objectives similar to those of this chapter and activities similar or related to those specified in section 7003 of this title and subsection (a) of this section;

(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this chapter as the Director may require;

(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

(6) requires that, to the extent possible, within personnel and funding limitations, on-site energy evaluations will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify;

(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this chapter, and under other Federal and State laws, with respect to the planning, financing, installation, and effective monitoring of energy-related facilities and activities;

(8) provides that the allocation within the State of the funds made available to it under this chapter will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this chapter;

(9) requires the establishment and implementation of policies and procedures designed to assure that assistance provided under this chapter does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds to the

maximum extent possible: *Provided*, That there shall be no requirement for matching State or local funds in the guidelines, unless such requirement is included in an annual authorization;

(10) requires effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

(11) requires the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

(12) limits to a maximum of 20 per centum the portion of the funds made available under this chapter which may be used for the purchase of equipment, facilities, and library and related materials;

(13) prohibits the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures; and

(14) satisfies such other criteria as the Director may establish to carry out the purpose of this chapter.

(Pub. L. 95-39, title V, § 505, June 3, 1977, 91 Stat. 193.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7002, 7003, 7005, 7007, 7008, 7010 of this title.

§ 7005. National implementation; State energy extension service plans

(a) Invitation to non-participating States to submit plans

Notwithstanding the provisions of section 7004 of this title, the Director, on behalf of the Administrator, is authorized and directed to invite in each State of the United States not then participating in the program at the earliest practicable date, but no later than October 1, 1978, to submit a plan for the conduct of energy extension service activities, including provisions for appropriate technical support in such State, to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

(1) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other public outreach programs.

(b) Guidelines for preparation and submission of State plans

Pursuant to authority described in subsection (a) of this section, the Director, with the approval of the Administrator, shall issue guidelines for the preparation and submission of State plans under subsection (c) of this section. Such guidelines shall be designated to assure that the plans so submitted will be consistent with this chapter and will effectively contribute to the achievement of its objectives, and shall allow maximum flexibility and the exercise of maximum discretion by the States. In the preparation of such guidelines, the Administrator shall provide a reasonable opportunity for inputs by representatives of the several States and for a reasonable period for public review and comment. In any event, such guidelines—

(1) shall require the establishment and implementation of policies and procedures designed to assure that assistance provided under this chapter does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds to the maximum extent possible;

(2) shall require effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

(3) shall require the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

(4) shall limit to a maximum of 20 per centum the portion of the funds made available under this chapter which may be used for the purchase of equipment, facilities, and library and related materials; and

(5) shall prohibit the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures.

(c) Invitation to Governors of non-participating States to submit plans after effective date of guidelines

On the effective date of the guidelines described in subsection (b) of this section, the Director shall invite the Governor of each State not then participating in the program to submit a plan for the conduct of energy extension service activities throughout such State.

(d) Approval of State plans

Each State plan submitted under subsection (c) of this section shall be approved by the Director if the Director finds that such plan—

(1) meets the objectives of this chapter;

(2) was prepared with opportunity for input from State, county, and local officials, State universities and community colleges, cooperative extension services, community service action agencies, and other public or private organizations involved in active energy outreach programs;

(3) consistent with the objectives and requirements of this chapter, makes optimum use of existing active outreach or delivery mechanisms or programs, and includes to the

optimum extent any existing State, local, university, or other organizations' programs for energy information, education, or technology transfer which have objectives similar to those of this chapter and activities similar or related to those specified in section 7003 of this title and subsection (a) of this section;

(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this chapter as the Director may require;

(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

(6) requires that, to the extent possible, within personnel and funding limitations, on-site energy evaluations will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify;

(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this chapter, and under other Federal and State laws, with respect to the planning, financing, installation, and effective monitoring of energy-related facilities and activities;

(8) provides that the allocation within the State of the funds made available to it under this chapter will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this chapter; and

(9) satisfies such other criteria as the Director may establish to carry out the purpose of this chapter.

(e) Revision of submitted plans

If the Director finds that a State plan submitted under subsection (c) of this section does not satisfy the requirements of subsection (d) of this section, he shall provide a reasonable opportunity for the State to present arguments in support of such plan and to revise the plan within a reasonable period of time to satisfy such requirements.

(f) Development of State plans by Director; use of existing offices, personnel, and delivery mechanisms; revisions; transmittal of Director-developed plans

(1) If a State does not submit a plan under subsection (a) of this section or its plan as so submitted (with any revisions made under subsection (e) of this section) is not acceptable, the Director (after giving notice and an opportunity for comment to the Governor of such State) shall develop consistent with other subsections of this section an energy extension service plan for the State involved, which conforms to the requirements of subsection (d) of this section. In conducting energy extension service activities under any plan developed under this subsection, the Director is authorized to enter into agreements for the utilization of existing Agriculture Extension Service offices and personnel, or such other offices and personnel as may be appropriate, and to provide funds for such operations; and in carrying out the functions of such offices the Director shall make maximum use of any existing delivery mechanisms for the State or local region concerned which are appropriate for purposes of this section, while coordinating his activities in connection with the performance of such functions with all such mechanisms in the State or region which are related to, but not directly involved, in the program under this chapter.

(2) Each State shall have a period of one hundred and eighty days after the issuance of the indication referred to in subsection (b) of this section (or a longer period if the Director finds, at the request of the Governor of such State, that an extension is justified) within which to submit its plan under subsection (c) of this section and if necessary to revise such plan under subsection (e) of this section before the Director may undertake the development of a plan for such State under paragraph (1) of this subsection.

(3) Any such plan developed by the Director shall be transmitted to the Governor of such State and shall not be implemented for ninety days after the date of transmittal: *Provided*, That notwithstanding the provisions of paragraphs (1) and (2) of this subsection, no such plan shall be implemented if the Governor within the ninety-day period notifies the Administration in writing of his objection to the implementation of said plan.

(g) Annual review of plan implementation; remedial action; termination of Federal assistance

The Director shall annually review the implementation of State plans approved under subsection (d) of this section to insure continued conformance with the requirements of this chapter. If the Director determines that the implementation of any approved State plan does not satisfy any of such requirements, he shall notify the Governor of the State and any other designated officials of the deficiency, with specific details, and shall provide a reasonable time and opportunity for remedial action. If, after such reasonable time and opportunity, satisfying remedial action has not been taken to place the implementation in conformance with such requirements, the Director shall so inform the Administrator, who shall give the Governor notice of intention to terminate Federal assistance, after the opportunity for the Governor's comment, if the implementation continues to not satisfy all such requirements. Federal assistance shall be terminated thereafter if satisfactory action is not taken. In the event Federal assistance is terminated under this subsection, the Director shall proceed in accordance with the procedures in subsection (f) of this section to develop an energy extension service for the State. In so doing, the Director shall provide for continuation of all activities under the State plan which were in conformance with the requirements of this chapter and shall effect only such changes in the activities under such plan as are necessary to satisfy such re-

quirements. The Director shall give the Governor notice of any such changes and shall provide a reasonable opportunity for the Governor to comment prior to proceeding with the changes.

(h) State energy extension service plans to complement or supplement State energy conservation plans submitted under Energy Policy and Conservation Act

In any case where a State has submitted a State energy conservation plan under part C of title III of the Energy Policy and Conservation Act, as amended [42 U.S.C. 6321 et seq.], the State's plan submitted under subsection (c) of this section shall specifically indicate how its proposed extension service program will complement or supplement any programs of public education under section 362(d)(4) of such Act [42 U.S.C. 6322(d)(4)] which are included under such energy conservation plan. In any event, each State plan submitted under subsection (c) of this section shall indicate how its proposed extension service program will complement or supplement any other energy conservation programs being carried out within the State with assistance from Federal funds or under other Federal laws.

(i) Financial assistance; information and technical assistance

The Director shall provide financial assistance to each State having a plan approved under subsection (d) of this section, from funds allocated to such State under section 7010(c) of this title, and shall provide information and technical assistance to such State, for the development, implementation, or modification of the State's plan submitted under subsection (c) of this section.

(j) Relationships between States and educational institutions not to be modified or altered

Nothing in this chapter, or in the comprehensive program developed under section 7003 of this title or any State plan approved under this section, shall have the effect of modifying or altering the relationships existing between educational institutions and the States in which they are located in connection with activities provided for under this chapter.

(Pub. L. 95-39, title V, § 506, June 3, 1977, 91 Stat. 195.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (h), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part C of title III of the Energy Policy and Conservation Act, as amended, is classified generally to part B (§ 6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7002, 7003, 7007, 7008, 7010 of this title.

§ 7006. Administration

(a) Regulations and directives

The Director shall promulgate such regulations and directives as may be necessary to carry out the functions and projects of the Service.

(b) Consultation and cooperation

The Director shall consult and cooperate with the Secretary of Housing and Urban Development, the Administrator of the Federal Energy Administration, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Secretary of Health, Education, and Welfare, the Community Services Administration (and its Institute for Appropriate Technology), the Secretary of Commerce (and the Regional Centers of the Economic Development Administration in the Department of Commerce), the Administrator of the Small Business Administration, and the heads of other Federal agencies administering energy-related programs, with a view toward achieving maximum coordination with such other programs, and for the purpose of insuring to the maximum extent possible that all energy conservation and new energy technology information disseminated by or through Federal programs in a given area are consistent and are fully coordinated in order to minimize duplication of effort and to maximize public confidence in the credibility of Federal or federally assisted programs. It shall be the responsibility of the Director to promote the coordination of programs under this chapter with other public or private programs or projects of a similar nature.

(c) Dissemination of information

Federal agencies described in subsection (b) of this section shall cooperate with the Director in disseminating information with respect to the availability of assistance under this chapter, and in promoting the identification and interests of individuals, groups, or business and commercial establishments eligible for assistance through programs funded under this chapter.

(d) Interagency Advisory Group

At such time as the Energy Resources Council is terminated, pursuant to section 5818 of this title, there shall be established an Interagency Advisory Group, consisting of the Director (as Chairman) and the heads of the Federal agencies described in subsection (b) of this section or their delegates, to assist the Director in carrying out his responsibilities under this section and to provide a mechanism for use by the Director and the heads of such agencies in the performance of their functions under subsections (b) and (c) of this section.

(Pub. L. 95-39, title V, § 507, June 3, 1977, 91 Stat. 198.)

REFERENCES IN TEXT

Section 5818 of this title, referred to in subsec. (d), was repealed by Pub. L. 95-91, title VII, § 709(b), Aug. 4, 1977, 91 Stat. 608, and the Energy Resources Council terminated.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration and the Federal Energy Administration were terminated and functions vested by law in their respective Administrators were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7007 of this title.

§ 7007. Energy education, extension, and information

(a) Program and plan; consultation; coordination with other activities

The Administrator is authorized and directed to prepare a comprehensive program and plan for Federal energy education, extension, and information activities authorized by this chapter and any other law. In the preparation of the program and plan, the Administrator shall utilize and consult with the head of each agency referred to in this chapter and any other Federal agency with an energy education, extension, or information program. Preparation of such program and plan shall not delay in any way the procedures specified in sections 7004 and 7005 of this title or the implementation otherwise of this chapter. Rather, the program and plan should reflect the activities mandated by this chapter and serve as a mechanism for Federal Government-wide coordination and management of those activities with the activities of other Federal agencies under other law.

(b) Elements of program and plan

The comprehensive program and plan shall include, but not be limited to, the following elements:

(1) specific delineation of responsibility of each participating Federal agency in the conduct of this chapter;

(2) mechanisms established to coordinate the activities under this chapter, pursuant to section 7006(b), (c), and (d) of this title;

(3) a detailed summary of all related Federal programs under other law, including program descriptions, types of delivery mechanisms, budget, and objectives;

(4) procedures for defining and measuring the effectiveness, in terms of increased energy efficiency, fuel savings, adoption of new energy technologies, and other appropriate criteria, of the activities under this chapter and related activities under other law;

(5) an assessment of other existing Federal assistance and incentives, other than public education, extension, and outreach programs, and their relation to such programs, in achieving the objectives of this chapter;

(6) procedures pursuant to section 7003(d) of this title to minimize conflict with existing services in the private sector of the economy which are similar to those under this chapter and other law; and

(7) a comprehensive and integrated plan for the resulting Federal program, taking into account paragraphs (1) through (6).

(c) Transmittal of program and plan to President and Congress; annual revision

The Administrator shall transmit the comprehensive program and plan to the President and to each House of Congress within one hundred and eighty days after June 3, 1977. Thereafter, the Administrator shall revise the program and plan on an annual basis and submit the revisions as part of the annual fiscal year budget submission and the report required by section 5914 of this title.

(Pub. L. 95-39, title V, § 508, June 3, 1977, 91 Stat. 199.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 7008. National Energy Extension Service Advisory Board

(a) Establishment; membership; chairman; reimbursement for expenses

There is hereby established a National Energy Extension Service Advisory Board (hereinafter in this section referred to as the "Board"), which shall consist of not less than fifteen nor more than twenty members appointed by the Administrator from among persons representative of State, county, and local governments, State universities, community colleges, community service action agencies, consumers, small business, and agriculture. The Administrator shall designate one of the members of the Board to serve as its chairman, and shall provide the Board with such services and facilities as may be necessary for the performance of its functions. The Administrator shall reimburse members of the Board for the full amount of any expenses (including travel expenses) necessarily incurred by them in the performance of their duties as such.

(b) Review and evaluation functions

The Board shall carry on a continuing review of the operation of the comprehensive program developed under section 7003 of this title and the various State plans approved under sections 7004 and 7005 of this title, for the purpose of evaluating their effectiveness in achieving the objectives of this chapter and determining how their operation might be improved in furtherance of such objectives.

(c) Report to Administrator, Director, and Congress

The Board shall report at least annually to the Administrator, the Director, and the Congress on the status of the program under this chapter, including any recommendations it may have for administrative or legislative changes to improve its operation.

(Pub. L. 95-39, title V, § 509, June 3, 1977, 91 Stat. 199.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a board established by the President or an officer of the federal government, such board is renewed by appropriate action prior to the end of such period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7009. Records

Each State or other entity within a State receiving Federal funds under this chapter shall make and retain such records as the Administrator shall require, including records which fully disclose the amount and disposition of such funds; the total cost of the facilities and activities for which such funds were given or used; the source and amount of any funds not supplied by the Administrator; and any data and information which the Administrator determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74-7 (34 CFR part 256) and any modification thereto. The Administrator, or any of his duly authorized representatives, shall have access until the expiration of three years after the completion of the facilities or activities involved, to any books, documents, papers, and records or receipts which the Administrator deems to be related or pertinent, directly or indirectly, to any such Federal funds.

(Pub. L. 95-39, title V, § 511, June 3, 1977, 91 Stat. 201.)

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 7010. Authorization of appropriations

(a) There are authorized to be appropriated to the Director to carry out this chapter such sums as may be included in the annual authorization, for the fiscal year 1977 (as provided in section 101(7)(G) of title I of this Act), for the nonnuclear programs of the Energy Research and Development Administration.

(b) To the extent provided in the Act making the appropriation involved, any portion of the amount appropriated pursuant to subsection (a) of this section for any fiscal year may be transferred by the Director, with the approval of the Administrator, to the head of any other Federal agency for payment to or expenditure within one or more States under sections 7004 and 7005 of this title upon a determination by the Director that the existence of regular payment channels or administrative relationships between that agency and the State involved (or entities within such State) makes such transfer and such payment or expenditure administratively more efficient or effective or otherwise promotes the achievement of the objectives of this chapter; but no transfer of funds under this subsection shall result in any loss by the Director of any authority over program direction or control which is vested in him by this chapter.

(c)(1) The total amount appropriated pursuant to subsection (a) of this section for the initial implementation of the energy extension service (other than the portion thereof needed for administrative expenses and special State projects) shall be allocated among the participating States according to the amounts needed to implement their proposed initial programs.

(2) The total amount appropriated pursuant to subsection (a) of this section for any fiscal year (other than the portion thereof needed for administrative expenses and special State projects) shall be allocated among the States in accordance with the following formula:

(i) one-half shall be divided equally among all the States; and

(ii) one-half shall be divided among the States in proportion to their respective populations, with each State being entitled to a sum that bears the same ratio to one-half of such total amount as such State's population (determined on the basis of the most recent decennial census) bears to the total population of all the States (as so determined).

(3) During the fiscal year in which this chapter becomes effective, the Director shall provide funds in accordance with paragraph (1) of this subsection for the implementation of the energy extension service activities in the maximum number of States determined by the Director to be feasible with the total amount appropriated pursuant to subsection (a) of this section: *Provided,* That in no case shall such number be less than ten States.

(Pub. L. 95-39, title V, § 512, June 3, 1977, 91 Stat. 201.)

REFERENCES IN TEXT

Section 101(7)(G) of title I of this Act, referred to in subsec. (a), is section 101(7)(G) of title I of Pub. L. 95-39, June 3, 1977, 91 Stat. 182, which was not classified to the Code.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7004, 7005 of this title.

§ 7011. Definitions

As used in this chapter, the term—

(1) "energy conservation" means energy conservation, efficient energy use and the utilization of renewable energy resources; and

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

(Pub. L. 95-39, title V, § 513, June 3, 1977, 91 Stat. 202.)

CHAPTER 84—DEPARTMENT OF ENERGY [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 30 section 1303.

§ 7101. Definitions

(a) As used in this chapter, unless otherwise provided or indicated by the context, the term the "Department" means the Department of Energy or any component thereof, including the Federal Energy Regulatory Commission.

(b) As used in this chapter (1) reference to "function" includes reference to any duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) reference to "perform", when used in relation to functions, includes the undertaking, fulfillment, or execution of any duty or obligation; and the exercise of power, authority, rights, and privileges.

(c) As used in this chapter, "Federal lease" means an agreement which, for any consideration, including but not limited to, bonuses, rents, or royalties conferred and covenants to be observed, authorizes a person to explore for, or develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

(Pub. L. 95-91, § 2, Aug. 4, 1977, 91 Stat. 567.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (c), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 95-91 provided: "That this Act [which enacted this chapter and section 916 of Title 7, Agriculture, amended sections 6833 and 6839 of this title, section 19 of Title 3, The President, sections 101, 5108, and 5312 to 5316 of Title 5, Government Organization and Employees, section 1701z-8 of Title 12, Banks and Banking, and sections 766, 790a, 790d, and 2002 of Title 15, Commerce and Trade, repealed sections 2036 and 5818 of this title and sections 763, 768, and 786 of Title 15, enacted provisions set out as a note under section 2201 of this title, and repealed provisions set out as a note under section 761 of Title 15]

may be cited as the 'Department of Energy Organization Act'."

SUBCHAPTER I—DECLARATION OF FINDINGS AND PURPOSES

§ 7111. Congressional findings

The Congress of the United States finds that—

(1) the United States faces an increasing shortage of nonrenewable energy resources;

(2) this energy shortage and our increasing dependence on foreign energy supplies present a serious threat to the national security of the United States and to the health, safety and welfare of its citizens;

(3) a strong national energy program is needed to meet the present and future energy needs of the Nation consistent with overall national economic, environmental and social goals;

(4) responsibility for energy policy, regulation, and research, development and demonstration is fragmented in many departments and agencies and thus does not allow for the comprehensive, centralized focus necessary for effective coordination of energy supply and conservation programs; and

(5) formulation and implementation of a national energy program require the integration of major Federal energy functions into a single department in the executive branch.

(Pub. L. 95-91, title I, § 101, Aug. 4, 1977, 91 Stat. 567.)

§ 7112. Congressional declaration of purpose

The Congress therefore declares that the establishment of a Department of Energy is in the public interest and will promote the general welfare by assuring coordinated and effective administration of Federal energy policy and programs. It is the purpose of this chapter—

(1) to establish a Department of Energy in the executive branch;

(2) to achieve, through the Department, effective management of energy functions of the Federal Government, including consultation with the heads of other Federal departments and agencies in order to encourage them to establish and observe policies consistent with a coordinated energy policy, and to promote maximum possible energy conservation measures in connection with the activities within their respective jurisdictions;

(3) to provide for a mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid- and long-term energy problems of the Nation; and to develop plans and programs for dealing with domestic energy production and import shortages;

(4) to create and implement a comprehensive energy conservation strategy that will receive the highest priority in the national energy program;

(5) to carry out the planning, coordination, support, and management of a balanced and comprehensive energy research and development program, including—

(A) assessing the requirements for energy research and development;

(B) developing priorities necessary to meet those requirements;

(C) undertaking programs for the optimal development of the various forms of energy production and conservation; and

(D) disseminating information resulting from such programs, including disseminating information on the commercial feasibility and use of energy from fossil, nuclear, solar, geothermal, and other energy technologies;

(6) to place major emphasis on the development and commercial use of solar, geothermal, recycling and other technologies utilizing renewable energy resources;

(7) to continue and improve the effectiveness and objectivity of a central energy data collection and analysis program within the Department;

(8) to facilitate establishment of an effective strategy for distributing and allocating fuels in periods of short supply and to provide for the administration of a national energy supply reserve;

(9) to promote the interests of consumers through the provision of an adequate and reliable supply of energy at the lowest reasonable cost;

(10) to establish and implement through the Department, in coordination with the Secretaries of State, Treasury, and Defense, policies regarding international energy issues that have a direct impact on research, development, utilization, supply, and conservation of energy in the United States and to undertake activities involving the integration of domestic and foreign policy relating to energy, including provision of independent technical advice to the President on international negotiations involving energy resources, energy technologies, or nuclear weapons issues, except that the Secretary of State shall continue to exercise primary authority for the conduct of foreign policy relating to energy and nuclear nonproliferation, pursuant to policy guidelines established by the President;

(11) to provide for the cooperation of Federal, State, and local governments in the development and implementation of national energy policies and programs;

(12) to foster and assure competition among parties engaged in the supply of energy and fuels;

(13) to assure incorporation of national environmental protection goals in the formulation and implementation of energy programs, and to advance the goals of restoring, protecting, and enhancing environmental quality, and assuring public health and safety;

(14) to assure, to the maximum extent practicable, that the productive capacity of private enterprise shall be utilized in the development and achievement of the policies and purposes of this chapter;

(15) to provide for, encourage, and assist public participation in the development and enforcement of national energy programs;

(16) to create an awareness of, and responsibility for, the fuel and energy needs of rural and urban residents as such needs pertain to home heating and cooling, transportation, agricultural production, electrical generation, conservation, and research and development;

(17) to foster insofar as possible the continued good health of the Nation's small business firms, public utility districts, municipal utilities, and private cooperatives involved in energy production, transportation, research, development, demonstration, marketing, and merchandising; and

(18) to provide for the administration of the functions of the Energy Research and Development Administration related to nuclear weapons and national security which are transferred to the Department by this chapter.

(Pub. L. 95-91, title I, § 102, Aug. 4, 1977, 91 Stat. 567.)

REFERENCES IN TEXT

This chapter, referred to in text preceding par. (1) and pars. (14) and (18), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7133 of this title.

§ 7113. Relationship with States

Whenever any proposed action by the Department conflicts with the energy plan of any State, the Department shall give due consideration to the needs of such State, and where practicable, shall attempt to resolve such conflict through consultations with appropriate State officials. Nothing in this chapter shall affect the authority of any State over matters exclusively within its jurisdiction.

(Pub. L. 95-91, title I, § 103, Aug. 4, 1977, 91 Stat. 569.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 7232, 7341 of this title.

§ 7131. Establishment

There is established at the seat of government an executive department to be known as the Department of Energy. There shall be at the head of the Department a Secretary of Energy (hereinafter in this chapter referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this chapter, under the supervision and direction of the Secretary.

(Pub. L. 95-91, title II, § 201, Aug. 4, 1977, 91 Stat. 569.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7132. Principal officers

(a) There shall be in the Department a Deputy Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5. The Deputy Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which the Under Secretary and other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

(b) There shall be in the Department an Under Secretary and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. The Under Secretary shall bear primary responsibility for energy conservation. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(Pub. L. 95-91, title II, § 202, Aug. 4, 1977, 91 Stat. 569.)

§ 7133. Assistant Secretaries; appointment and confirmation; identification of responsibilities

(a) There shall be in the Department eight Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate; who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5; and who shall perform, in accordance with applicable law, such of the functions transferred or delegated to, or vested in, the Secretary as he shall prescribe in accordance with the provisions of this chapter. The functions which the Secretary shall assign to the Assistant Secretaries include, but are not limited to, the following:

(1) Energy resource applications, including functions dealing with management of all forms of energy production and utilization, including fuel supply, electric power supply, enriched uranium production, energy technology programs, and the management of energy resource leasing procedures on Federal lands.

(2) Energy research and development functions, including the responsibility for policy and management of research and development for all aspects of—

(A) solar energy resources;

(B) geothermal energy resources;

(C) recycling energy resources;

(D) the fuel cycle for fossil energy resources; and

(E) the fuel cycle for nuclear energy resources.

(3) Environmental responsibilities and functions, including advising the Secretary with respect to the conformance of the Department's activities to environmental protection laws and principles, and conducting a comprehensive program of research and development on the environmental effects of energy technologies and programs.

(4) International programs and international policy functions, including those functions which assist in carrying out the international energy purposes described in section 7112 of this title.

(5) National security functions, including those transferred to the Department from the Energy Research and Development Administration which relate to management and implementation of the nuclear weapons program and other national security functions involving nuclear weapons research and development.

(6) Intergovernmental policies and relations, including responsibilities for assuring that national energy policies are reflective of and responsible to the needs of State and local governments, and for assuring that other components of the Department coordinate their activities with State and local governments, where appropriate, and develop intergovernmental communications with State and local governments.

(7) Competition and consumer affairs, including responsibilities for the promotion of competition in the energy industry and for the protection of the consuming public in the energy policymaking processes, and assisting the Secretary in the formulation and analysis of policies, rules, and regulations relating to competition and consumer affairs.

(8) Nuclear waste management responsibilities, including—

(A) the establishment of control over existing Government facilities for the treatment and storage of nuclear wastes, including all containers, casks, buildings, vehicles, equipment, and all other materials associated with such facilities;

(B) the establishment of control over all existing nuclear waste in the possession or control of the Government and all commercial nuclear waste presently stored on other than the site of a licensed nuclear power electric generating facility, except that nothing in this paragraph shall alter or effect title to such waste;

(C) the establishment of temporary and permanent facilities for storage, management, and ultimate disposal of nuclear wastes;

(D) the establishment of facilities for the treatment of nuclear wastes;

(E) the establishment of programs for the treatment, management, storage, and disposal of nuclear wastes;

(F) the establishment of fees or user charges for nuclear waste treatment or storage facilities, including fees to be charged Government agencies; and

(G) the promulgation of such rules and regulations to implement the authority described in this paragraph,

except that nothing in this section shall be construed as granting to the Department regulatory functions presently within the Nuclear Regulatory Commission, or any additional functions than those already conferred by law.

(9) Energy conservation functions, including the development of comprehensive energy conservation strategies for the Nation, the planning and implementation of major research and demonstration programs for the development of technologies and processes to reduce total energy consumption, the administration of voluntary and mandatory energy conservation programs, and the dissemination to the public of all available information on energy conservation programs and measures.

(10) Power marketing functions, including responsibility for marketing and transmission of Federal power.

(11) Public and congressional relations functions, including responsibilities for providing a continuing liaison between the Department and the Congress and the Department and the public.

(b) At the time the name of any individual is submitted for confirmation to the position of Assistant Secretary, the President shall identify with particularity the function or functions described in subsection (a) of this section (or any portion thereof) for which such individual will be responsible.

(Pub. L. 95-91, title II, § 203, Aug. 4, 1977, 91 Stat. 570.)

References in Text

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title, and Tables.

Section Referred to in Other Sections

This section is referred to in sections 7139, 7158 of this title.

§ 7134. Federal Energy Regulatory Commission; compensation of Chairman and members

There shall be within the Department, a Federal Energy Regulatory Commission established by subchapter IV of this chapter (hereinafter referred to in this chapter as the "Commission"). The Chairman shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5. The other members of the Commission shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5. The Chairman and members of the Commission shall be individuals who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy.

(Pub. L. 95-91, title II, § 204, Aug. 4, 1977, 91 Stat. 571.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7135. Energy Information Administration

(a) Establishment; appointment of Administrator; compensation; qualifications; duties

(1) There shall be within the Department an Energy Information Administration to be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for in level IV of the Executive Schedule under section 5315 of title 5. The Administrator shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

(2) The Administrator shall be responsible for carrying out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

(b) Delegation of functions

The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine may be necessary to assure the faithful execution of his authorities and responsibilities under law) the functions vested in him by law relating to gathering, analysis, and dissemination of energy information (as defined in section 796 of title 15) and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of such delegated functions.

(c) Functions of Director of the Office of Energy Information and Analysis

In addition to, and not in limitation of the functions delegated to the Administrator pursuant to other subsections of this section, there shall be vested in the Administrator, and he shall perform, the functions assigned to the Director of the Office of Energy Information and Analysis under part B of the Federal Energy Administration Act of 1974 [15 U.S.C. 790 et seq.], and the provisions of sections 53(d) and 59 thereof [15 U.S.C. 790b(d), 790h] shall be applicable to the Administrator in the performance of any function under this chapter.

(d) Collection or analysis of information and preparation of reports without approval

The Administrator shall not be required to obtain the approval of any other officer or employee of the Department in connection with the collection or analysis of any information; nor shall the Administrator be required, prior to publication, to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

(e) Annual audit

The Energy Information Administration shall be subject to an annual professional audit review of performance as described in section 55 of part B of the Federal Energy Administration Act of 1974 [15 U.S.C. 790d].

(f) Furnishing information or analysis to any other administration, commission, or office within the Department

The Administrator shall, upon request, promptly provide any information or analysis in his possession pursuant to this section to any other administration, commission, or office within the Department which such administration, commission, or office determines relates to the functions of such administration, commission, or office.

(g) Availability of information to public

Information collected by the Energy Information Administration shall be cataloged and, upon request, any such information shall be promptly made available to the public in a form and manner easily adaptable for public use, except that this subsection shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of title 5. The provisions of section 796(d) of title 15, and section 5916 of this title, shall continue to apply to any information obtained by the Administrator under such provisions.

(h) Identification and designation of "major energy producing companies"; format for financial report; accounting practices; filing of financial report; annual report of Department; definitions; confidentiality

(1)(A) In addition to the acquisition, collection, analysis, and dissemination of energy information pursuant to this section, the Administrator shall identify and designate "major energy-producing companies" which alone or with their affiliates are involved in one or more lines of commerce in the energy industry so

that the energy information collected from such major energy-producing companies shall provide a statistically accurate profile of each line of commerce in the energy industry in the United States.

(B) In fulfilling the requirements of this subsection the Administrator shall—

(i) utilize, to the maximum extent practicable, consistent with the faithful execution of his responsibilities under this chapter, reliable statistical sampling techniques; and

(ii) otherwise give priority to the minimization of the reporting of energy information by small business.

(2) The Administrator shall develop and make effective for use during the second full calendar year following August 4, 1977, the format for an energy-producing company financial report. Such report shall be designed to allow comparison on a uniform and standardized basis among energy-producing companies and shall permit for the energy-related activities of such companies—

(A) an evaluation of company revenues, profits, cash flow, and investments in total, for the energy-related lines of commerce in which such company is engaged and for all significant energy-related functions within such company;

(B) an analysis of the competitive structure of sectors and functional groupings within the energy industry;

(C) the segregation of energy information, including financial information, describing company operations by energy source and geographic area;

(D) the determination of costs associated with exploration, development, production, processing, transportation, and marketing and other significant energy-related functions within such company; and

(E) such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this chapter.

(3) The Administrator shall consult with the Chairman of the Securities and Exchange Commission with respect to the development of accounting practices required by the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] to be followed by persons engaged in whole or in part in the production of crude oil and natural gas and shall endeavor to assure that the energy-producing company financial report described in paragraph (2) of this subsection, to the extent practicable and consistent with the purposes and provisions of this chapter, is consistent with such accounting practices where applicable.

(4) The Administrator shall require each major energy-producing company to file with the Administrator an energy-producing company financial report on at least an annual basis and may request energy information described in such report on a quarterly basis if he determines that such quarterly report of information will substantially assist in achieving the purposes of this chapter.

(5) A summary of information gathered pursuant to this section, accompanied by such analysis as the Administrator deems appropriate, shall be included in the annual report of the Department required by subsection (a)[1] of section 7267 of this title.

(6) As used in this subsection the term—

(A) "energy-producing company" means a person engaged in:

(i) ownership or control of mineral fuel resources or nonmineral energy resources;

(ii) exploration for, or development of, mineral fuel resources;

(iii) extraction of mineral fuel or nonmineral energy resources;

(iv) refining, milling, or otherwise processing mineral fuels or nonmineral energy resources;

(v) storage of mineral fuels or nonmineral energy resources;

(vi) the generation, transmission, or storage of electrical energy;

(vii) transportation of mineral fuels or nonmineral energy resources by any means whatever; or

(viii) wholesale or retail distribution of mineral fuels, nonmineral energy resources or electrical energy;

(B) "energy industry" means all energy-producing companies; and

(C) "person" has the meaning as set forth in section 796 of title 15.

(7) The provisions of section 1905 of title 18 shall apply in accordance with its terms to any information obtained by the Administration pursuant to this subsection.

(Pub. L. 95-91, title II, § 205, Aug. 4, 1977, 91 Stat. 572.)

REFERENCES IN TEXT

The Federal Energy Administration Act of 1974, referred to in subsec. (c), is Pub. L. 93-275, May 7, 1974, 88 Stat. 96, as amended. Part B of the Federal Energy Administration Act of 1974 is classified generally to subchapter II (§ 790 et seq.) of chapter 16B of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 761 of Title 15 and Tables.

This chapter, referred to in subsecs. (c), (h)(1)(B)(i), 2(E), (3), (4), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (h)(3), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, which is classified principally to chapter 77 (§ 6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§ 7136. Economic Regulatory Administration; appointment of Administrator; compensation; qualifications; functions

(a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall

[1] So in original. Section 7267 of this title was not enacted with a subsec. (a).

be compensated at a rate provided for level IV of the Executive Schedule under section 5315 of title 5. Such Administrator shall be, by demonstrated ability, background, training, or experience, an individual who is specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy. The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to, or vested in, the Administration.

(b) Consistent with the provisions of subchapter IV of this chapter, the Secretary shall utilize the Economic Regulatory Administration to administer such functions as he may consider appropriate.

(Pub. L. 95-91, title II, § 206, Aug. 4, 1977, 91 Stat. 574.)

§ 7137. Functions of Comptroller General

The functions of the Comptroller General of the United States under section 771 of title 15 shall apply with respect to the monitoring and evaluation of all functions and activities of the Department under this chapter or any other Act administered by the Department.

(Pub. L. 95-91, title II, § 207, Aug. 4, 1977, 91 Stat. 574.)

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7138. Office of Inspector General

(a) Appointment and confirmation of Inspector General and Deputy Inspector General; removal; assistants; compensation

(1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(2) There shall also be in the Office a Deputy Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

(5) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, and the Deputy Inspector General shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5.

(b) Duties and responsibilities of Inspector General

It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud or abuse in, programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, and (B) the identification and prosecution of participants in such fraud or abuse;

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (c) of this section and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action; and

(5) to seek to coordinate his actions with the actions of the Comptroller General of the United States with a view to avoiding duplication.

(c) Annual report to Secretary, Federal Energy Regulatory Commission, and Congress

The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary, to the Federal Energy Regulatory Commission, and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies re-

lating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(d) Report on problems, abuses, or deficiencies relating to administration of Department programs and operations

The Inspector General shall report immediately to the Secretary, to the Federal Energy Regulatory Commission as appropriate, and, within thirty days thereafter, to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(e) Additional investigations and reports

The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(f) Transmittal of reports, information, or documents without clearance or approval

Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary, to the Federal Energy Regulatory Commission, if applicable, and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsection (c) of this section to the Secretary and the Commission, if applicable, sufficiently in advance of the due date for the submission to Congress to provide a reasonable opportunity for comments of the Secretary and the Commission to be appended to the reports when submitted to Congress.

(g) Additional authority of Inspector General

In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions under this section.

(Pub. L. 95-91, title II, § 208, Aug. 4, 1977, 91 Stat. 575.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(4), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

§ 7139. Office of Energy Research; establishment; appointment of Director; compensation; duties

(a) There shall be within the Department an Office of Energy Research to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(b) It shall be the duty and responsibility of the Director—

(1) to advise the Secretary with respect to the physical research program transferred to the Department from the Energy Research and Development Administration;

(2) to monitor the Department's energy research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

(3) to advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department, excluding laboratories that constitute part of the nuclear weapons complex;

(4) to advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

(5) to advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

(6) to carry out such additional duties assigned to the Office by the Secretary relating to basic and applied research, including but not limited to supervision or support of research activities carried out by any of the Assistant Secretaries designated by section 7133 of this title, as the Secretary considers advantageous.

(Pub. L. 95-91, title II, § 209, Aug. 4, 1977, 91 Stat. 577.)

§ 7140. Leasing Liaison Committee; establishment; composition

There is established a Leasing Liaison Committee which shall be composed of an equal number of members appointed by the Secretary and the Secretary of the Interior.

(Pub. L. 95-91, title II, § 210, Aug. 4, 1977, 91 Stat. 577.)

SUBCHAPTER III—TRANSFERS OF FUNCTIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7301 of this title.

§ 7151. General transfers

(a) Except as otherwise provided in this chapter, there are transferred to, and vested in, the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in the officers and components of either such Administration.

(b) Except as provided in subchapter IV of this chapter, there are transferred to, and vested in, the Secretary the function of the Federal Power Commission, or of the members, officers, or components thereof. The Secretary may exercise any power described in section 7172(a)(2) of this title to the extent the Secretary determines such power to be necessary to the exercise of any function within his jurisdiction pursuant to the preceding sentence.

(Pub. L. 95-91, title III, § 301, Aug. 4, 1977, 91 Stat. 577.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7159, 7174 of this title.

§ 7152. Transfers from Department of the Interior

(a) Functions relating to electric power

(1) There are transferred to, and vested in, the Secretary all functions of the Secretary of the Interior under section 825s of title 16, and all other functions of the Secretary of the Interior, and officers and components of the Department of the Interior, with respect to—

(A) the Southeastern Power Administration;

(B) the Southwestern Power Administration;

(C) the Alaska Power Administration;

(D) the Bonneville Power Administration including but not limited to the authority contained in the Bonneville Project Act of 1937 [16 U.S.C. 832 et seq.] and the Federal Columbia River Transmission System Act [16 U.S.C. 838 et seq.];

(E) the power marketing functions of the Bureau of Reclamation, including the construction, operation, and maintenance of transmission lines and attendant facilities; and

(F) the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.

(2) The Southeastern Power Administration, the Southwestern Power Administration, the Bonneville Power Administration, and the Alaska Power Administration shall be preserved as separate and distinct organizational entities within the Department. Each such entity shall be headed by an Administrator appointed by the Secretary. The functions transferred to the Secretary in paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) shall be exercised by the Secretary, acting by and through such Administrators. Each such Administrator shall maintain his principal office at a place located in the region served by his respective Federal power marketing entity.

(3) The functions transferred in paragraphs (1)(E) and (1)(F) of this subsection shall be exercised by the Secretary, acting by and through a separate and distinct Administration within the Department which shall be headed by an Administrator appointed by the Secretary. The Administrator shall establish and shall maintain such regional offices as necessary to facilitate the performance of such functions. Neither the transfer of functions effected by paragraph (1)(E) of this subsection nor any changes in cost allocation or project evaluation standards shall be deemed to authorize the reallocation of joint costs of multipurpose facilities theretofore allocated unless and to the extent that such change is hereafter approved by Congress.

(b) Functions of Secretary of the Interior to promulgate regulations under certain acts

There are transferred to, and vested in, the Secretary the functions of the Secretary of the Interior to promulgate regulations under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], the Mineral Lands Leasing Act [30 U.S.C. 181 et seq.], the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.], the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], and the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.], which relate to the—

(1) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

(2) implementation of alternative bidding systems authorized for the award of Federal leases;

(3) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements);

(4) setting rates of production for Federal leases; and

(5) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

(c) Functions relating to establishment of production rates for all Federal leases

There are transferred to, and vested in, the Secretary all the functions of the Secretary of the Interior to establish production rates for all Federal leases.

(d) Functions of Bureau of Mines

There are transferred to, and vested in, the Secretary those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 15, 1910, and other authorities, exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering;

(2) research and development relating to increased efficiency of production technology of solid fuel minerals, other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining (which shall remain in the Department of the Interior); and

(3) coal preparation and analysis.

(Pub. L. 95-91, title III, § 302, Aug. 4, 1977, 91 Stat. 578.)

REFERENCES IN TEXT

The Bonneville Project Act of 1937, referred to in subsec. (a)(1)(D), is act Aug. 20, 1937, ch. 720, 50 Stat. 731, as amended, which is classified generally to chapter 12B (§ 832 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

The Federal Columbia River Transmission System Act, referred to in subsec. (a)(1)(D), is Pub. L. 93-454, Oct. 18, 1974, 88 Stat. 1376, which is classified generally to chapter 12G (§ 838 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 838 of Title 16 and Tables.

The Act of June 18, 1954, as amended by the Act of December 23, 1963, referred to in subsec. (a)(1)(F), is act June 18, 1954, ch. 310, 68 Stat. 255, which was not classified to the Code.

The Outer Continental Shelf Lands Act, referred to in subsec. (b), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43, and Tables.

The Mineral Lands Leasing Act, referred to in subsec. (b), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Mineral Leasing Act for Acquired Lands, referred to in subsec. (b), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

The Geothermal Steam Act of 1970, referred to in subsec. (b), is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (b), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, which is classified principally to chapter 77 (§ 6201 et seq.) of this title. For complete classification of This Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Act of May 15, 1910, referred to in subsec. (d), probably means act May 16, 1910, ch. 240, 36 Stat. 369, which is classified to sections 1, 3, and 5 to 7 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7153 of this title.

§ 7153. Administration of leasing transfers

(a) Authority retained by Secretary of the Interior

The Secretary of the Interior shall retain any authorities not transferred under section 7152(b) of this title and shall be solely responsible for the issuance and supervision of Federal leases and the enforcement of all regulations applicable to the leasing of mineral resources, including but not limited to lease terms and conditions and production rates. No regulation promulgated by the Secretary shall restrict or limit any authority retained by the Secretary of the Interior under section 7152(b) of this title with respect to the issuance or supervision of Federal leases. Nothing in section 7152(b) of this title shall be construed to affect Indian lands and resources or to transfer any functions of the Secretary of the Interior concerning such lands and resources.

(b) Consultation with Secretary of the Interior with respect to promulgation of regulations

In exercising the authority under section 7152(b) of this title to promulgate regulations, the Secretary shall consult with the Secretary of the Interior during the preparation of such regulations and shall afford the Secretary of the Interior not less than thirty days, prior to the date on which the Department first publishes or otherwise prescribes regulations, to comment on the content and effect of such regulations.

(c) Disapproval of terms and conditions on issuance of Federal leases

(1) The Secretary of the Interior shall afford the Secretary not less than thirty days, prior to the date on which the Department of the Interior first publishes or otherwise prescribes the terms and conditions on which a Federal lease will be issued, to disapprove any term or condition of such lease which relates to any matter with respect to which the Secretary has author-

ity to promulgate regulations under section 7152(b) of this title. No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Secretary and the Secretary of the Interior may by agreement define circumstances under which a reasonable opportunity of less than thirty days may be afforded the Secretary to disapprove such terms and conditions.

(2) Where the Secretary disapproves any lease, term, or condition under paragraph (1) of this subsection he shall furnish the Secretary of the Interior with a detailed written statement of the reasons for his disapproval, and of the alternatives which would be acceptable to him.

(d) Preparation of environmental impact statement

The Department of the Interior shall be the lead agency for the purpose of preparation of an environmental impact statement required by section 4332(2)(C) of this title for any action with respect to the Federal leases taken under the authority of this section, unless the action involves only matters within the exclusive authority of the Secretary.

(Pub. L. 95-91, title III, § 303, Aug. 4, 1977, 91 Stat. 579.)

§ 7154. Transfers from Department of Housing and Urban Development

(a) There is transferred to, and vested in, the Secretary the functions vested in the Secretary of Housing and Urban Development pursuant to section 304 of the Energy Conservation Standards for New Buildings Act of 1976 [42 U.S.C. 6833], to develop and promulgate energy conservation standards for new buildings. The Secretary of Housing and Urban Development shall provide the Secretary with any necessary technical assistance in the development of such standards. All other responsibilities, pursuant to title III of the Energy Conservation and Production Act [42 U.S.C. 6831 et seq.], shall remain with the Secretary of Housing and Urban Development, except that the Secretary shall be kept fully and currently informed of the implementation of the promulgated standards.

(b) There is hereby transferred to, and vested in, the Secretary the functions vested in the Secretary of Housing and Urban Development pursuant to section 1701z-8 of title 12.

(Pub. L. 95-91, title III, § 304, Aug. 4, 1977, 91 Stat. 580.)

REFERENCES IN TEXT

The Energy Conservation and Production Act, referred to in subsec. (a), is Pub. L. 94-385, Aug. 14, 1976, 90 Stat. 1125, as amended. Title III of the Energy Conservation and Production Act, known as the Energy Conservation Standards for New Buildings Act of 1976, is classified generally to subchapter II (§ 6831 et seq.) of chapter 81 of this title. For complete classification of the Energy Conservation and Production Act and the Energy Standards for New Buildings Act of 1976, see Short Title notes set out under section 6801 of this title and Tables.

§ 7155. Transfer from Interstate Commerce Commission

Except as provided in subchapter IV of this chapter, there are transferred to the Secretary such functions set forth in the Interstate Commerce Act [49 U.S.C. 1 et seq.] and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil by pipeline.

(Pub. L. 95-91, title III, § 306, Aug. 4, 1977, 91 Stat. 581.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in par. first, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which is classified generally to chapters 1, 8, 12, 13, and 19 (§§ 1 et seq., 301 et seq., 901 et seq., 1001 et seq., and 1231 et seq., respectively) of Title 49, Transportation. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act set out under section 27 of Title 49 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7174 of this title.

§ 7156. Transfers from Department of the Navy

There are transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, in the Secretary of the Navy as they relate to the administration of and jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1924.

In the administration of any of the functions transferred to, and vested in, the Secretary by this section the Secretary shall take into consideration the requirements of national security.

(Pub. L. 95-91, title III, § 307, Aug. 4, 1977, 91 Stat. 581.)

§ 7157. Transfers from Department of Commerce

There are transferred to, and vested in, the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy

Programs, but limited to industrial energy conservation programs.

(Pub. L. 95-91, title III, § 308, Aug. 4, 1977, 91 Stat. 581.)

§ 7158. Naval reactor and military application programs

(a) The Division of Naval Reactors established pursuant to section 2035 of this title, and responsible for research, design, development, health, and safety matters pertaining to naval nuclear propulsion plants and assigned civilian power reactor programs is transferred to the Department under the Assistant Secretary to whom the Secretary has assigned the function listed in section 7133(a)(2)(E) of this title, and such organizational unit shall be deemed to be an organizational unit established by this chapter.

(b) The Division of Military Application, established by section 2035 of this title, and the functions of the Energy Research and Development Administration with respect to the Military Liaison Committee, established by section 2037 of this title, are transferred to the Department under the Assistant Secretary to whom the Secretary has assigned those functions listed in section 7133(a)(5) of this title, and such organizational units shall be deemed to be organizational units established by this chapter.

(Pub. L. 95-91, title III, § 309, Aug. 4, 1977, 91 Stat. 581.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7159. Transfer to Department of Transportation

Notwithstanding section 7151(a) of this title, there are transferred to, and vested in, the Secretary of Transportation all of the functions vested in the Administrator of the Federal Energy Administration by section 6361(b)(1)(B) of this title.

(Pub. L. 95-91, title III, § 310, Aug. 4, 1977, 91 Stat. 582.)

SUBCHAPTER IV—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 7134, 7136, 7151, 7155, 7298, 7301, 7341 of this title.

§ 7171. Appointment and administration

(a) Federal Energy Regulatory Commission; establishment

There is established within the Department an independent regulatory commission to be known as the Federal Energy Regulatory Commission.

(b) Composition; term of office; conflict of interest

The Commission shall be composed of five members appointed by the President, by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), two at the end of two years, two at the end of three years, and one at the end of four years. Not more than three members of the Commission shall be members of the same political party. Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve for more than one year after the date on which his term would otherwise expire under this subsection. Members of the Commission shall not engage in any other business, vocation, or employment while serving on the Commission.

(c) Duties and responsibilities of Chairman

The Chairman shall be responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to (1) the appointment and employment of hearing examiners in accordance with the provisions of title 5, (2) the selection, appointment, and fixing of the compensation of such personnel as he deems necessary, including an executive director, (3) the supervision of personnel employed by or assigned to the Commission, except that each member of the Commission may select and supervise personnel for his personal staff, (4) the distribution of business among personnel and among administrative units of the Commission, and (5) the procurement of services of experts and consultants in accordance with section 3109 of title 5. The Secretary shall provide to the Commission such support and facilities as the Commission determines it needs to carry out its functions.

(d) Supervision and direction of members, employees, or other personnel of Commission

In the performance of their functions, the members, employees, or other personnel of the Commission shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department.

(e) Designation of acting Chairman; quorum; seal

The Chairman of the Commission may designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have one

vote. Actions of the Commission shall be determined by a majority vote of the members present. The Commission shall have an official seal which shall be judicially noticed.

(f) Rules

The Commission is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Commission, any procedural and administrative rules applicable to particular functions over which the Commission has jurisdiction shall continue in effect with respect to such particular functions.

(g) Powers of Commission

In carrying out any of its functions, the Commission shall have the powers authorized by the law under which such function is exercised to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Commission may, by one or more of its members or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions, except that nothing in this subsection shall be deemed to supersede the provisions of section 556 of title 5 relating to hearing examiners.

(h) Principal office of Commission

The principal office of the Commission shall be in or near the District of Columbia, where its general sessions shall be held, but the Commission may sit anywhere in the United States.

(i) Commission deemed agency; attorney for Commission

For the purpose of section 552b of title 5, the Commission shall be deemed to be an agency. Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Commission may appear for, and represent the Commission in, any civil action brought in connection with any function carried out by the Commission pursuant to this chapter or as otherwise authorized by law.

(j) Annual authorization and appropriation request

In each annual authorization and appropriation request under this chapter, the Secretary shall identify the portion thereof intended for the support of the Commission and include a statement by the Commission (1) showing the amount requested by the Commission in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Commission. Whenever the Commission submits to the Secretary, the President, or the Office of Management and Budget, any legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Commission shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(Pub. L. 95-91, title IV, § 401, Aug. 4, 1977, 91 Stat. 582.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (i) and (j), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7192 of this title.

§ 7172. Jurisdiction of Commission

(a) Transfer of functions from Federal Power Commission

(1) There are transferred to, and vested in, the Commission the following functions of the Federal Power Commission or of any member of the Commission or any officer or component of the Commission:

(A) the investigation, issuance, transfer, renewal, revocation, and enforcement of licenses and permits for the construction, operation, and maintenance of dams, water conduits, reservoirs, powerhouses, transmission lines, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act [16 U.S.C. 791a et seq.];

(B) the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on construction work in progress, under part II of the Federal Power Act [16 U.S.C. 824 et seq.], and the interconnection, under section 202(b), of such Act [16 U.S.C. 824a(b)], of facilities for the generation, transmission, and sale of electric energy (other than emergency interconnection);

(C) the establishment, review, and enforcement of rates and charges for the transportation and sale of natural gas by a producer or gatherer or by a natural gas pipeline or natural gas company under sections 1, 4, 5, and 6 of the Natural Gas Act [15 U.S.C. 717, 717c to 717e];

(D) the issuance of a certificate of public convenience and necessity, including abandonment of facilities or services, and the establishment of physical connections under section 7 of the Natural Gas Act [15 U.S.C. 717f];

(E) the establishment, review, and enforcement of curtailments, other than the establishment and review of priorities for such curtailments, under the Natural Gas Act [15 U.S.C. 717 et seq.]; and

(F) the regulation of mergers and securities acquisition under the Federal Power Act [16 U.S.C. 791a et seq.] and Natural Gas Act [15 U.S.C. 717 et seq.].

(2) The Commission may exercise any power under the following sections to the extent the Commission determines such power to be necessary to the exercise of any function within the jurisdiction of the Commission:

(A) sections 4, 301, 302, 306 through 309, and 312 through 316 of the Federal Power Act [16 U.S.C. 797, 825, 825a, 825e to 825h, 825k to 825o]; and

(B) sections 8, 9, 13 through 17, 20, and 21 of the Natural Gas Act [15 U.S.C. 717g, 717h, 717*l* to 717p, 717s, 717t].

(b) Transfer of functions from Interstate Commerce Commission

There are transferred to, and vested in, the Commission all functions and authority of the Interstate Commerce Commission or any officer or component of such Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline.

(c) Consideration of proposals made by Secretary to amend regulations issued under section 753 of title 15; exception

(1) Pursuant to the procedures specified in section 7174 of this title and except as provided in paragraph (2), the Commission shall have jurisdiction to consider any proposal by the Secretary to amend the regulation required to be issued under section 753(a) of title 15 which is required by section 757 or 760a of title 15 to be transmitted by the President to, and reviewed by, each House of Congress, under section 6421 of this title.

(2) In the event that the President determines that an emergency situation of overriding national importance exists and requires the expeditious promulgation of a rule described in paragraph (1), the President may direct the Secretary to assume sole jurisdiction over the promulgation of such rule, and such rule shall be transmitted by the President to, and reviewed by, each House of Congress under section 757 or 760a of title 15, and section 6421 of this title.

(d) Matters involving agency determinations to be made on record after agency hearing

The Commission shall have jurisdiction to hear and determine any other matter arising under any other function of the Secretary—

(1) involving any agency determination required by law to be made on the record after an opportunity for an agency hearing; or

(2) involving any other agency determination which the Secretary determines shall be made on the record after an opportunity for an agency hearing,

except that nothing in this subsection shall require that functions under sections 6213 and 6214 of this title shall be within the jurisdiction of the Commission unless the Secretary assigns such a function to the Commission.

(e) Matters assigned by Secretary after public notice and matters referred under section 7174 of this title

In addition to the other provisions of this section, the Commission shall have jurisdiction over any other matter which the Secretary may assign to the Commission after public notice, or which are required to be referred to the Commission pursuant to section 7174 of this title.

(f) Limitation

No function described in this section which regulates the exports or imports of natural gas or electricity shall be within the jurisdiction of the Commission unless the Secretary assigns such a function to the Commission.

(g) Final agency action

The decision of the Commission involving any function within its jurisdiction, other than action by it on a matter referred to it pursuant to section 7174 of this title, shall be final agency action within the meaning of section 704 of title 5 and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(h) Rules, regulations, and statements of policy

The Commission is authorized to prescribe rules, regulations, and statements of policy of general applicability with respect to any function under the jurisdiction of the Commission pursuant to this section.

(Pub. L. 95-91, title IV, § 402, Aug. 4, 1977, 91 Stat. 583.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a)(1)(A), (B), (F), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. Parts I and II of the Federal Power Act are classified generally to subchapters I (§ 791a et seq.) and II (§ 824 et seq.), respectively, of chapter 12 of Title 16. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The Natural Gas Act, referred to in subsecs. (a)(1)(E), (F), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7151, 7173, 7174, 7191 of this title.

§ 7173. Initiation of rulemaking procedures before Commission

(a) Proposal of rules, regulations, and statements of policy of general applicability by Secretary and Commission

The Secretary and the Commission are authorized to propose rules, regulations, and statements of policy of general applicability with respect to any function within the jurisdiction of the Commission under section 7172 of this title.

(b) Consideration and final action on proposals of Secretary

The Commission shall have exclusive jurisdiction with respect to any proposal made under subsection (a) of this section, and shall consider and take final action on any proposal made by the Secretary under such subsection in an expeditious manner in accordance with such reasonable time limits as may be set by the Secretary for the completion of action by the Commission on any such proposal.

(c) Utilization of rulemaking procedures for establishment of rates and charges under Federal Power Act and Natural Gas Act

Any function described in section 7172 of this title which relates to the establishment of rates and charges under the Federal Power Act [16 U.S.C. 791a et seq.] or the Natural Gas Act [15 U.S.C. 717 et seq.], may be conducted by rulemaking procedures. Except as provided in subsection (d) of this section, the procedures in such a rulemaking proceeding shall assure full consideration of the issues and an opportunity for interested persons to present their views.

(d) Submission of written questions by interested persons

With respect to any rule or regulation promulgated by the Commission to establish rates and charges for the first sale of natural gas by a producer or gatherer to a natural gas pipeline under the Natural Gas Act [15 U.S.C. 717 et seq.], the Commission may afford any interested person a reasonable opportunity to submit written questions with respect to disputed issues of fact to other interested persons participating in the rulemaking proceedings. The Commission may establish a reasonable time for both the submission of questions and responses thereto.

(Pub. L. 95-91, title IV, § 403, Aug. 4, 1977, 91 Stat. 585.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (c), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The Natural Gas Act, referred to in subsecs. (c) and (d), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7174 of this title.

§ 7174. Referral of other rulemaking proceedings to Commission

(a) Notification of Commission of proposed action; public comment

Except as provided in section 7173 of this title, whenever the Secretary proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of any function which is transferred to the Secretary under section 7151 or 7155 of this title, he shall notify the Commission of the proposed action. If the Commission, in its discretion, determines within such period as the Secretary may prescribe, that the proposed action may significantly affect any function within the jurisdiction of the Commission pursuant to section 7172(a)(1), (b), and (c)(1) of this title, the Secretary shall immediately refer the matter to the Commission, which shall provide an opportunity for public comment.

(b) Recommendations of Commission; publication

Following such opportunity for public comment the Commission, after consultation with the Secretary, shall either—

(1) concur in adoption of the rule or statement as proposed by the Secretary;

(2) concur in adoption of the rule or statement only with such changes as it may recommend; or

(3) recommend that the rule or statement not be adopted.

The Commission shall promptly publish its recommendations, adopted under this subsection, along with an explanation of the reason for its actions and an analysis of the major comments, criticisms, and alternatives offered during the comment period.

(c) Options of Secretary; final agency action

Following publication of the Commission's recommendations the Secretary shall have the option of—

(1) issuing a final rule or statement in the form initially proposed by the Secretary if the Commission has concurred in such rule pursuant to subsection (b)(1) of this section;

(2) issuing a final rule or statement in amended form so that the rule conforms in all respects with the changes proposed by the Commission if the Commission has concurred in such rule or statement pursuant to subsection (b)(2) of this section; or

(3) ordering that the rule shall not be issued.

The action taken by the Secretary pursuant to this subsection shall constitute a final agency action for purposes of section 704 of title 5.

(Pub. L. 95-91, title IV, § 404, Aug. 4, 1977, 91 Stat. 586.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7172 of this title.

§ 7175. Right of Secretary to intervene in Commission proceedings

The Secretary may as a matter of right intervene or otherwise participate in any proceeding before the Commission. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Commission to assure procedure fairness to all participants.

(Pub. L. 95-91, title IV, § 405, Aug. 4, 1977, 91 Stat. 586.)

§ 7176. Reorganization

For the purposes of chapter 9 of title 5 the Commission shall be deemed to be an independent regulatory agency.

(Pub. L. 95-91, title IV, § 406, Aug. 4, 1977, 91 Stat. 586.)

§ 7177. Access to information

(a) The Secretary, each officer of the Department, and each Federal agency shall provide to the Commission, upon request, such existing information in the possession of the Department or other Federal agency as the Commission determines is necessary to carry out its responsibilities under this chapter.

(b) The Secretary, in formulating the information to be requested in the reports or investigations under section 825c and 825j of title 16 and section 717i and section 717j of title 15 shall include in such reports and investigations such specific information as requested by the Federal Energy Regulatory Commission and copies of all reports, information, results of investigations and data under said sections shall be furnished by the Secretary to the Federal Energy Regulatory Commission.

(Pub. L. 95-91, title IV, § 407, Aug. 4, 1977, 91 Stat. 587.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SUBCHAPTER V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

§ 7191. Procedures for issuance of rules, regulations, or orders

(a) Applicability of subchapter II of chapter 5 of title 5

(1) Subject to the other requirements of this subchapter, the provisions of subchapter II of chapter 5 of title 5 shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5), issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this chapter or any other Act to be carried out by any other officer, employee, or component of the Department, other than the Commission, including any such rule, regulation, or order of a State, or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary in accordance with this subchapter. If any provision of any Act, the functions of which are transferred, vested, or delegated pursuant to this chapter, provides administrative procedure requirements in addition to the requirements provided in this subchapter, such additional requirements shall also apply to actions under that provision.

(2) Notwithstanding paragraph (1), this subchapter shall apply to the Commission to the same extent this subchapter applies to the Secretary in the exercise of any of the Commission's functions under section 7172(c)(1) of this title or which the Secretary has assigned under section 7172(e) of this title.

(b) Publication of proposed rules, regulations, or orders in Federal Register; statement; minimum comment period; additional notice requirement; availability of exception

(1) In addition to the requirements of subsection (a) of this section, notice of any proposed rule, regulation, or order described in subsection (a) of this section shall be given by publication of such proposed rule, regulation, or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of, the need for, and the probable effect of, any such proposed rule, regulation, or order. Other effective means of publicity shall be utilized as may be reasonably calculated to notify concerned or affected persons of the nature and probable effect of any such proposed rule, regulation, or order. In each case, a minimum of thirty days following such publication shall be provided for an opportunity to comment prior to promulgation of any such rule, regulation, or order.

(2) Public notice of all rules, regulations, or orders described in subsection (a) of this section which are promulgated by officers of a State or local government agency pursuant to a delegation under this chapter shall be provided by publication of such proposed rules, regulations, or orders in at least two newspapers of statewide circulation. If such publication is not practicable, notice of any such rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will reasonably assure wide public notice.

(3) For the purposes of this subchapter; the exception from the requirements of section 553 of title 5 provided by subsection (a)(2) of such section with respect to public property, loans, grants, or contracts shall not be available.

(c) Substantial issue of fact or law or likelihood or substantial impact on Nation's economy, etc.; oral presentation

(1) If the Secretary determines, on his own initiative or in response to any showing made pursuant to paragraph (2) (with respect to a proposed rule, regulation, or order described in subsection (a) of this section) that no substantial issue of fact or law exists and that such rule, regulation, or order is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, such proposed rule, regulation, or order may be promulgated in accordance with section 553 of title 5. If the Secretary determines that a substantial issue of fact or law exists or that such rule, regulation, or order is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided.

(2) Any person, who would be adversely affected by the implementation of any proposed rule, regulation, or order who desires an opportunity for oral presentation of views, data, and arguments, may submit material supporting the existence of such substantial issues or such impact.

(3) A transcript shall be kept of any oral presentation with respect to a rule, regulation, or order described in subsection (a) of this section.

(d) Promulgation of rule if accompanied by explanation

Following the notice and comment period, including any oral presentation required by this subsection, the Secretary may promulgate a rule if the rule is accompanied by an explanation responding to the major comments, criticisms, and alternatives offered during the comment period.

(e) Waiver of requirements

The requirements of subsections (b), (c), and (d) of this section may be waived where strict compliance is found by the Secretary to be likely to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order. In the event the requirements of this section are waived, the requirements shall be satisfied within a reasonable period of time subsequent to the promulgation of such rule, regulation, or order.

(f) Effects confined to single unit of local government, geographic area within State, or State; hearing or oral presentation

(1) With respect to any rule, regulation, or order described in subsection (a) of this section, the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof;

the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views, and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C) of this paragraph as the case may be.

(2) For the purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section or other provision of law.

(g) Prescription of procedures for State and local government agencies

Where authorized by any law vested, transferred, or delegated pursuant to this chapter, the Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of this section, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) within a reasonable time before taking the action.

(Pub. L. 95-91, title V, § 501, Aug. 4, 1977, 91 Stat. 587.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(2), (g), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7193, 7194, 7195 of this title.

§ 7192. Judicial review

(a) Agency action

Judicial review of agency action taken under any law the functions of which are vested by law in, or transferred or delegated to the Secretary, the Commission or any officer, employee, or component of the Department shall, notwithstanding such vesting, transfer, or delegation, be made in the manner specified in or for such law.

(b) Review by district court of United States; removal

Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising exclusively under this chapter, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this chapter, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this chapter or the validity of action taken by any agency under this chapter). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this chapter or the validity of agency action under this chapter, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (A) any appropriate State court, or (B) without regard to the amount in controversy, the district courts of the United States.

(c) Litigation supervision by Attorney General

Subject to the provisions of section 7171(i) of this title and notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General

pursuant to chapter 31 of title 28. The Attorney General may authorize any attorney of the Department to conduct any civil litigation of the Department in any Federal court except the Supreme Court.

(Pub. L. 95-91, title V, § 502, Aug. 4, 1977, 91 Stat. 589.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7193. Remedial orders

(a) Violations of rules, regulations, or orders promulgated pursuant to Emergency Petroleum Allocation Act of 1973

If upon investigation the Secretary or his authorized representative believes that a person has violated any regulation, rule, or order described in section 7191(a) of this title promulgated pursuant to the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.], he may issue a remedial order to the person. Each remedial order shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of such rule, regulation, or order alleged to have been violated. For purposes of this section "person" includes any individual, association, company, corporation, partnership, or other entity however organized.

(b) Notice of intent to contest; final order not subject to review

If within thirty days after the receipt of the remedial order issued by the Secretary, the person fails to notify the Secretary that he intends to contest the remedial order, the remedial order shall become effective and shall be deemed a final order of the Secretary and not subject to review by any court or agency.

(c) Notice of contestation to Commission; stay; hearing; cross examination; final order; enforcement and review

If within thirty days after the receipt of the remedial order issued by the Secretary, the person notifies the Secretary that he intends to contest a remedial order issued under subsection (a) of this section, the Secretary shall immediately advise the Commission of such notification. Upon such notice, the Commission shall stay the effect of the remedial order, unless the Commission finds the public interest requires immediate compliance with such remedial order. The Commission shall, upon request, afford an opportunity for a hearing, including, at a minimum, the submission of briefs, oral or documentary evidence, and oral arguments. To the extent that the Commission in its discretion determines that such is required for a full and true disclosure of the facts, the Commission shall afford the right of cross examination. The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's remedial order, or directing other appropriate relief, and such order shall, for the purpose of judicial review, constitute a final agency action, except that enforcement and other judicial review of such action shall be the responsibility of the Secretary.

(d) Time limits

The Secretary may set reasonable time limits for the Commission to complete action on a proceeding referred to it pursuant to this section.

(e) Effect on procedural action taken by Secretary prior to issuance of initial remedial order

Nothing in this section shall be construed to affect any procedural action taken by the Secretary prior to or incident to initial issuance of a remedial order which is the subject of the hearing provided in this section, but such procedures shall be reviewable in the hearing.

(f) Savings provision

The provisions of this section shall be applicable only with respect to proceedings initiated by a notice of probable violation issued after October 1, 1977.

(Pub. L. 95-91, title V, § 503, Aug. 4, 1977, 91 Stat. 590.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (a), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, as amended, which is classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 751 of Title 15 and Tables.

§ 7194. Requests for adjustments

(a) The Secretary or any officer designated by him shall provide for the making of such adjustments to any rule, regulation or order described in section 7191(a) of this title issued under the Federal Energy Administration Act [15 U.S.C. 761 et seq.], the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.], the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.], or the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.], consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recission of, exception to, or exemption from, such rule, regulation or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition.

(b)(1) If any person is aggrieved or adversely affected by a denial of a request for adjustment under subsection (a) of this section such person may request a review of such denial by the Commission and may obtain judicial review in

accordance with this subchapter when such a denial becomes final.

(2) The Commission shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial. Action by the Commission under this section shall be considered final agency action within the meaning of section 704 of title 5 and shall not be subject to further review by the Secretary or any officer or employee of the Department. Litigation involving judicial review of such action shall be the responsibility of the Secretary.

(Pub. L. 95-91, title V, § 504, Aug. 4, 1977, 91 Stat. 590.)

REFERENCES IN TEXT

The Federal Energy Administration Act, referred to in subsec. (a), is Pub. L. 93-275, May 7, 1974, 88 Stat. 96, as amended, which is classified generally to chapter 16B (§ 761 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 761 of Title 15 and Tables.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (a), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, as amended, which is classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 751 of Title 15 and Tables.

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (a), is Pub. L. 93-319, June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (a), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, which is classified principally to chapter 77 (§ 6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§ 7195. Report to Congress; contents

Within one year after October 1, 1977, the Secretary shall submit a report to Congress concerning the actions taken to implement section 7191 of this title. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the procedures required by such section.

(Pub. L. 95-91, title V, § 505, Aug. 4, 1977, 91 Stat. 591.)

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

PART A—CONFLICT OF INTEREST PROVISIONS

§ 7211. Definitions

(a) Supervisory employees

For the purposes of this subchapter, the following officers or employees of the Department are supervisory employees:

(1) an individual holding a position in the Department at GS-16, GS-17, or GS-18 of the General Schedule or at level I, II, III, IV, or V of the Executive Schedule, or who is in a position at a comparable or higher level on any other Federal pay scale, or who holds a position pursuant to subsection (b) or (d) of section 7231 of this title, or who is an expert or consultant employed pursuant to section 3109 of title 5 for more than ninety days in any calendar year and receives compensation at an annual rate equal to or in excess of the minimum rate prescribed for individuals at GS-16 of the General Schedule;

(2) the Director or Deputy Director of any State, regional, district, local, or other field office maintained pursuant to section 7260 of this title;

(3) an employee or officer who has primary responsibility for the award, review, modification, or termination of any grant, contract, award, or fund transfer within the authority of the Secretary; and

(4) any other employee or officer who, in the judgment of the Secretary, exercises sufficient decisionmaking or regulatory authority so that the provisions of this subchapter should apply to such individual.

(b) Energy concern

For purposes of this subchapter the term "energy concern" includes—

(1) any person significantly engaged in the business of developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(2) any person holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(3) any person significantly engaged in the business of producing, generating, transmitting, distributing, or selling electric power;

(4) any person significantly engaged in development, production, processing, sale, or distribution of nuclear materials, facilities, or technology;

(5) any person—

(A) significantly engaged in the business of conducting research, development, or demonstration related to an activity described in paragraph (1), (2), (3), or (4); or

(B) significantly engaged in conducting such research, development or demonstration with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(c) Publication of list of energy concerns

(1) The Secretary shall prepare and periodically publish a list of persons which the Secretary has determined to be energy concerns as defined by subsection (b) of this section. The absence of any particular energy concern from such list shall not exempt any officer or em-

ployee from the requirements of sections 7212 through 7216 of this title.

(2) At the request of any officer or employee of the Department the Secretary shall determine whether any person is an energy concern as defined by subsection (b) of this section.

(d) Knowledge of interest, status, or position

For the purposes of sections 7212(a), 7213(a), 7215(a), and 7216 of this title an individual shall be deemed to have known of or knowingly committed a described act or to have known of or knowingly held a described interest, status, or position if the employee knew or should have known of such act, interest, status, or position. For the purposes of section 7212(a) of this title an officer or employee shall be deemed to have known of or knowingly held an interest in an energy concern if such interest is sold or otherwise transferred to his spouse or dependent while such officer or employee is, or within six months prior to the date on which such officer or employee becomes, an officer or employee of the Department. The placing of an interest under a trust by an individual shall not satisfy the requirement of section 7212 of this title or waive the requirements of section 7213 of this title as to such interest unless none of the interests placed under such trust by such individual consists of known financial interests in any energy concern.

(Pub. L. 95-91, title VI, § 601, Aug. 4, 1977, 91 Stat. 591.)

REFERENCES IN TEXT

The General and Executive Schedules, referred to in subsec. (a)(1), are set out under section 5332 and in subchapter II (§ 5311 et seq.) of chapter 53 of Title 5, Government Organization and Employees, respectively.

§ 7212. Divestiture of energy holdings by supervisory employees

(a) Prohibitions with respect to energy holdings

No supervisory employee shall knowingly receive compensation from, or hold any official relation with, any energy concern, or own stocks or bonds of any energy concern, or have any pecuniary interest therein.

(b) Compliance by transferred personnel; notice

Personnel transferred to the Department pursuant to section 7291 of this title shall have six months to comply with the provisions of subsection (a) of this section with respect to prohibited property holdings. Any person transferred pursuant to section 7291 of this title shall notify the Secretary or his designee of all known circumstances which would be violative of the restrictions set forth in subsection (a) of this section not later than thirty days after the date of such transfer, as determined by the United States Civil Service Commission.

(c) Waiver requirements

Where exceptional hardship would result, or where the interest is a pension, insurance or other similarly vested interest, the Secretary is authorized to waive the requirements of this section for such period as he may prescribe with respect to any supervisory employee covered. Such waiver shall:

(1) be published in the Federal Register;

(2) contain a finding by the Secretary that exceptional hardship would result or that there is such a vested interest; and

(3) state the period of the waiver and indicate the actions taken to minimize or eliminate the conflict of interest during such period.

(d) Disclosure

Any supervisory employee who continues to receive income from any energy concern, or continues to own property directly or indirectly in any such concern shall disclose such income or ownership pursuant to section 7213 of this title.

(Pub. L. 95-91, title VI, § 602, Aug. 4, 1977, 91 Stat. 592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7217, 7218 of this title.

§ 7213. Disclosure of energy assets

(a) Report; contents; time to file; form and manner

Each individual who at any time during the calendar year serves as an officer or employee of the Department shall disclose to the Secretary—

(1) the amount of income and the identity of the source of income knowingly received by such individual, his spouse, or dependent from any energy concern, and

(2) the identity and value of interest knowingly held in any such concern

during such calendar year. Such report shall be filed not later than thirty days after commencing service in the Department and on May 15 following each such calendar year. Each report under this subsection shall be in such form and manner as the Secretary shall, by rule, prescribe.

(b) Duties of Secretary

The Secretary shall—

(1) act, within ninety days after October 1, 1977, by rule to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements, for the recording by the reviewing official of any action taken to eliminate any potential conflict, and for the signing of such statement by the reviewing official; and

(2) include, as part of the report made pursuant to section 7267 of this title, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Identification of exempt positions

In the rules prescribed in subsection (b) of this section, the Secretary shall identify specific positions, or classes thereof, within the Department which are of a nonregulatory or nonpolicymaking nature at or below GS-12 of the General Schedule and shall exempt such posi-

tions and the individuals occupying those positions from the requirements of this section.

(d) Report of employee or officer whose employment ceased during any calendar year; time to file

Each individual required to file a report under this section who during any calendar year ceases to be an officer or employee of the Department shall file a report covering that portion of such year beginning on January 1 and ending on the date on which he ceases to be such an officer or employee, and such report shall be filed with the Secretary not later than thirty days after such date.

(e) Extensions of time for filing

The Secretary may grant one or more reasonable extensions of time for filing any such report under this section but the total of such extensions shall not exceed ninety days.

(Pub. L. 95-91, title VI, § 603, Aug. 4, 1977, 91 Stat. 593.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7212, 7217, 7218 of this title.

§ 7214. Report on prior employment; contents; exceptions

(a) Within sixty days of becoming a supervisory employee of the department, each supervisory employee shall file with the Secretary, in such form and manner as the Secretary shall prescribe, a report identifying any energy concern which paid the reporting individual compensation in excess of $2,500 in any of the previous five calendar years. The individual shall include in the report—

(1) the name and address of each source of such compensation;

(2) the period during which the reporting individual was receiving such compensation from each such source;

(3) the title of each position or relationship the reporting individual held with each compensating source; and

(4) a brief description of the duties performed or services rendered by the reporting individual in each such position.

(b) Subsection (a) of this section shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, recognized by law, between such individual and any person; nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(Pub. L. 95-91, title VI, § 604, Aug. 4, 1977, 91 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7217, 7218 of this title.

§ 7215. Postemployment prohibitions and reporting requirements

(a)(1) Except as provided in paragraph (2) or (3), no supervisory employee shall, within one year after his employment with the Department has ceased, knowingly—

(A) make any appearance or attendance before, or

(B) make any written or oral communication to, and with the intent to influence the action of;

the Department if such appearance or communication relates to any particular matter which is pending before the Department.

(2) Paragraph (1) shall not apply to any appearance, attendance, or communication made, during any part of such year that such individual is employed by, and is on behalf of, the United States; nor shall it apply to an appearance or communication by the former supervisory employee where such appearance or communication is made in response to a subpena, or concerns any matter of an exclusively personal and individual nature such as pension benefits.

(3) Paragraph (1) shall not prohibit a former supervisory employee with outstanding scientific or technological qualifications from making any appearance, attendance, or written or oral communication in connection with a particular matter in a scientific or technological field if the Secretary or the Commission, as the case may be, makes a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by such former supervisory employee.

(b)(1) Each former supervisory employee of the Department shall file with the Secretary, in such form and manner as the Secretary shall prescribe, not later than May 15 of the first and second calendar years following the first full year in which such person ceased to be an officer or employee of the Department, a report describing any employment with any energy concern during the period to which such report relates, including any employment as a consultant, agent, attorney, or otherwise, except that the requirements of this subsection shall not apply to any former supervisory employee who, at the time such employment with the Department ceases, has any contract, promise, or other agreement with respect to future employment with any energy concern, if (A) the former supervisory employee describes such agreement in any report filed within thirty days after the individual ceases to be an employee of the Department, and (B) the former supervisory employee amends the report by May 15 of either of the next two years during which he has accepted employment with another energy concern.

(2) Each report filed pursuant to paragraph (1) of this subsection shall contain the name and address of the person filing the report, the name and address of the energy concern with

which he holds or will hold employment during any portion of the period covered by the report, a brief description of his responsibilities for the energy concern, the dates of his employment, and such other pertinent information as the Secretary may require.

(Pub. L. 95-91, title VI, § 605, Aug. 4, 1977, 91 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7217, 7218 of this title.

§ 7216. Participation prohibitions of former supervisory employees

(a) Department proceedings in which former employer is substantially, directly, or materially involved

For a period of one year after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

(b) Department proceedings for which former employee had direct responsibility or in which former employee participated substantially or personally

For a period of one year after commencing service in the Department, no supervisory employee shall knowingly participate in any Department proceeding for which, within the previous five years, he had direct responsibility, or in which he participated substantially or personally, while in the employment of any energy concern.

(c) Waiver

Whenever the Secretary makes a written finding as to a particular supervisory employee that the application of a particular restriction or requirement imposed by subsection (a) or (b) of this section in a particular circumstance would work an exceptional hardship upon such supervisory employee or would be contrary to the national interest, the Secretary may waive in writing such restriction or requirement as to such supervisory employee. Any waiver made by the Secretary of a restriction imposed under subsection (b) of this section shall also be filed with any record of the Department proceeding as to which the waiver for purposes of participation is granted. No such waiver shall in any instance constitute a waiver of the requirements of section 207 of title 18.

(Pub. L. 95-91, title VI, § 606, Aug. 4, 1977, 91 Stat. 595.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7217, 7218 of this title.

§ 7217. Procedures applicable to reports

(a) Availability of reports to public; fee; time

(1) Except as provided in this section, the Secretary shall make each report filed with him under section 7213, 7214, or 7215 of this title available to the public within thirty days after the receipt of such report, and shall provide a copy of any such report to any person upon written request.

(2) The Secretary may require any person receiving a copy of any report to pay a reasonable fee in any amount which the Secretary finds necessary to recover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. The Secretary may furnish a copy of any such report without charge, or at a reduced charge, if he determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the public.

(3) Any report received by the Secretary shall be held in his custody and made available to the public for a period of six years after receipt by the Secretary of such report. After such six-year period, the Secretary shall destroy any such report.

(b) Civil Service Commission audit of reports

The Civil Service Commission shall, under such regulations as are prescribed by the Commission, conduct, on a random basis, a sufficient number of audits of the reports filed pursuant to sections 7213, 7214, and 7215 of this title, as deemed necessary and appropriate in order to monitor the accuracy and completeness of such reports.

(c) Findings and waivers file; availability to public

The Secretary shall maintain a file containing all findings and waivers made by him pursuant to section 7212(c), 7213(c), 7215(a), or 7216(c) of this title and all such findings and waivers shall be available for public inspection and copying at all times during regular working hours in accordance with the procedures of this section.

(Pub. L. 95-91, title VI, § 607, Aug. 4, 1977, 91 Stat. 596.)

§ 7218. Sanctions

(a) Criminal penalty

Any individual who is subject to, and knowingly violates, section 7213 of this title shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(b) Civil penalty

Any individual who violates section 7212, 7213, 7214, 7215, or 7216 of this title shall be subject to a civil penalty, assessed by the Secretary in accordance with applicable law or by any district court of the United States, not to exceed $10,000 for each violation.

(c) Violations of postemployment prohibitions and reporting requirements considered in deciding outcome of Department proceedings

Notwithstanding any penalty imposed under subsection (a) of this section, any violation of section 7215(a) of this title shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(d) Effect on operation of sections 207 and 208 of title 18

Nothing in this title shall be deemed to limit the operation of section 207 or section 208 of title 18. Nor shall any waiver issued pursuant to section 7212(c) of this title constitute a waiver of the requirements of such provision.

(Pub. L. 95-91, title VI, § 608, Aug. 4, 1977, 91 Stat. 596.)

PART B—PERSONNEL PROVISIONS

§ 7231. Officers and employees

(a) Authority of Secretary to appoint and fix compensation

In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out such functions. Except as otherwise provided in this section, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Appointment of scientific, engineering, etc., personnel without regard to civil service laws; compensation; termination of authority

(1) Subject to the limitations provided in paragraph (2) and to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than three hundred eleven of the scientific, engineering, professional, and administrative personnel of the department without regard to the civil service laws, and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5.

(2) The Secretary's authority under this subsection to appoint an individual to such a position without regard to the civil service laws shall cease—

(A) when a person appointed, within four years after October 1, 1977, to fill such position under paragraph (1) leaves such position, or

(B) on the day which is four years after such date,

whichever is later.

(c) Placement of GS-16, GS-17, and GS-18 positions without regard to section 3324 of title 5; termination of authority

(1) Subject to the provisions of chapter 51 of title 5 but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, GS-17, and GS-18, not to exceed one hundred seventy-eight positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of sections 3324 of title 5, relating to the approval by the Civil Service Commission of appointments under GS-16, GS-17, and GS-18 if the individual placed in such position is an individual who is transferred in connection with a transfer of functions under this chapter and who, immediately before October 1, 1977, held a position and duties comparable to those of such position.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to fill such position leaves such position.

(d) Appointment of additional scientific, engineering, etc., personnel without regard to civil service laws; compensation

In addition to the number of positions which may be placed at GS-16, GS-17, and GS-18 under section 5108 of title 5, under existing law, or under this chapter, and to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than two hundred of the scientific, engineering, professional, and administrative personnel without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5.

(e) Determination of maximum aggregate number of positions

For the purposes of determining the maximum aggregate number of positions which may be placed at GS-16, GS-17, or GS-18 under section 5108(a) of title 5, 63 percent of the positions established under subsections (b) and (c) of this section shall be deemed GS-16 positions, 25 percent of such positions shall be deemed GS-17 positions, and 12 percent of such positions shall be deemed GS-18.

(Pub. L. 95-91, title VI, § 621, Aug. 4, 1977, 91 Stat. 596.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (a), (b)(1), (2), (d), are out forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

GS-16, GS-17, and GS-18, referred to in subsecs. (b)(1), (c)(1), (2), (d), and (e), are contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

This chapter, referred to in subsecs. (c)(2), (d), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7232. Senior positions

In addition to those positions created by subchapter II of this chapter, there shall be within the Department fourteen additional officers in positions authorized by section 5316 of title 5 who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(Pub. L. 95-91, title VI, § 622, Aug. 4, 1977, 91 Stat. 597.)

§ 7233. Experts and consultants

The Secretary may obtain services as authorized by section 3109 of title 5, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5 for persons in Government service employed intermittently.

(Pub. L. 95-91, title VI, § 623, Aug. 4, 1977, 91 Stat. 598.)

§ 7234. Advisory committees

(a) The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than full-time employees of the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government serving without pay.

(b) Section 776 of title 15 shall be applicable to advisory committees chartered by the Secretary, or transferred to the Secretary or the Department under this chapter, except that where an advisory committee advises the Secretary on matters pertaining to research and development, the Secretary may determine that such meeting shall be closed because it involves research and development matters and comes within the exemption of section 552b(c)(4) of title 5.

(Pub. L. 95-91, title VI, § 624, Aug. 4, 1977, 91 Stat. 598.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (b), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

TERMINATON OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7235. Armed services personnel

(a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions authorized to be performed, on August 4, 1977, in the Energy Research and Development Administration and under chapter 641 of title 10. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as such term is defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to, or arising out of, such status, office, rank, or grade. Any member so detailed shall not be charged against any statutory or other limitation or strengths applicable to the Armed Forces, but shall be charged to such limitations as may be applicable to the Department. A member so detailed shall not be subject to direction or control by his armed force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which detailed.

(Pub. L. 95-91, title VI, § 625, Aug. 4, 1977, 91 Stat. 598.)

PART C—GENERAL ADMINISTRATIVE PROVISIONS

§ 7251. General authority

To the extent necessary or appropriate to perform any function transferred by this chapter, the Secretary or any officer or employee of the Department may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

(Pub. L. 95-91, title VI, § 641, Aug. 4, 1977, 91 Stat. 598.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7252. Delegation

Except as otherwise expressly prohibited by law, and except as otherwise provided in this chapter, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions within the Department as he may deem to be necessary or appropriate.

(Pub. L. 95-91, title VI, § 642, Aug. 4, 1977, 91 Stat. 599.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see

Short Title note set out under section 7101 of this title and Tables.

§ 7253. Reorganization

The Secretary is authorized to establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this chapter, or to the transfer of functions vested by this chapter in any organizational unit or component.

(Pub. L. 95-91, title VI, § 643, Aug. 4, 1977, 91 Stat. 599.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7254. Rules and regulations

The Secretary is authorized to prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him.

(Pub. L. 95-91, title VI, § 644, Aug. 4, 1977, 91 Stat. 599.)

§ 7255. Subpoena

For the purpose of carrying out the provisions of this chapter, the Secretary, or his duly authorized agent or agents, shall have the same powers and authorities as the Federal Trade Commission under section 49 of title 15 with respect to all functions vested in, or transferred or delegated to, the Secretary or such agents by this chapter.

(Pub. L. 95-91, title VI, § 645, Aug. 4, 1977, 91 Stat. 599.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7256. Contracts, leases, etc., with public agencies and private organizations and persons

(a) The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

(b) Notwithstanding any other provision of this subchapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95-91, title VI, § 646, Aug. 4, 1977, 91 Stat. 599.)

§ 7257. Acquisition, construction, etc., of laboratories, research and testing sites, etc.

The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(Pub. L. 95-91, title VI, § 647, Aug. 4, 1977, 91 Stat. 599.)

§ 7258. Facilities construction

(a) Employees and dependents stationed at remote locations

As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Audio-visual equipment, accessories, and supplies for recreation and training;

(5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) Living and working quarters and facilities; and

(7) Transportation of schoolage dependents of employees to the nearest appropriate educational facilities.

(b) Medical treatment at reasonable prices

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Use of reimbursement proceeds

Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary. Such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law

governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

(Pub. L. 95-91, title VI, § 648, Aug. 4, 1977, 91 Stat. 600.)

§ 7259. Use of facilities

(a) Facilities of United States and foreign governments

With their consent, the Secretary and the Federal Energy Regulatory Commission may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary or the Commission.

(b) Facilities under custody of Secretary

In carrying out his functions, the Secretary, under such terms, at such rates, and for such periods not exceeding five years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard. This section shall not apply to excess property as defined in section 472(e) of title 40.

(c) Use of reimbursement proceeds

Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law governing such fund, if the fund is available for use for providing the equipment or facilities involved.

(Pub. L. 95-91, title VI, § 649, Aug. 4, 1977, 91 Stat. 600.)

§ 7260. Field offices

The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions vested in him.

(Pub. L. 95-91, title VI, § 650, Aug. 4, 1977, 91 Stat. 601.)

Section Referred to in Other Sections

This section is referred to in section 7211 of this title.

§ 7261. Acquisition of copyrights, patents, etc.

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 95-91, title VI, § 651, Aug. 4, 1977, 91 Stat. 601.)

§ 7262. Gifts, bequests, and devises

The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

(Pub. L. 95-91, title VI, § 652, Aug. 4, 1977, 91 Stat. 601.)

§ 7263. Capital fund

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual

of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized.

(Pub. L. 95-91, title VI, § 653, Aug. 4, 1977, 91 Stat. 601.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7258, 7259 of this title.

§ 7264. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

(Pub. L. 95-91, title VI, § 654, Aug. 4, 1977, 91 Stat. 602.)

§ 7265. Regional Energy Advisory Boards

(a) Establishment; membership

The Governors of the various States may establish Regional Energy Advisory Boards for their regions with such membership as they may determine.

(b) Observers

Representatives of the Secretary, the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard and the Administrator of the Environmental Protection Agency shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section. The Federal Cochairman of the Appalachian Regional Commission or any regional commission under title V of the Public Works and Economic Development Act [42 U.S.C. 3181 et seq.] shall be entitled to participate as an observer in the deliberations of any such Board which contains one or more States which are members of such Commission.

(c) Recommendations of Board

Each Board established pursuant to subsection (a) of this section may make such recommendations as it determines to be appropriate to programs of the Department having a direct effect on the region.

(d) Notice of reasons not to adopt recommendations

If any Regional Advisory Board makes specific recommendations pursuant to subsection (c) of this section, the Secretary shall, if such recommendations are not adopted in the implementation of the program, notify the Board in writing of his reasons for not adopting such recommendations.

(Pub. L. 95-91, title VI, § 655, Aug. 4, 1977, 91 Stat. 602.)

REFERENCES IN TEXT

The Public Works and Economic Development Act, referred to in subsec. (b), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended. Title V of the Public Works and Economic Development Act is classified generally to subchapter V (§ 3181 et seq.) of chapter 38 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

§ 7266. Designation of conservation officers

The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Interior, the United States Postal Service, and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal conservation officer of such Department or of the Administration. Such designated principal conservation officer shall be principally responsible for planning and implementation of energy conservation programs by such Department or Administration and principally responsible for coordination with the Department of Energy with respect to energy matters. Each agency, Department or Administration required to designate a principal conservation officer pursuant to this section shall periodically inform the Secretary of the identity of such conservation officer, and the Secretary shall periodically publish a list identifying such officers.

(Pub. L. 95-91, title VI, § 656, Aug. 4, 1977, 91 Stat. 602.)

§ 7267. Annual report

The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following October 1, 1977, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 774 of title 15, section 5877 of this title, and section 5914 of this title, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation, including a comprehensive summary of data pertaining to all fuel and energy needs of residents of the United States residing in—

(A) areas outside standard metropolitan statistical areas; and

(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, to encourage conservation practices, and to increase efficiency; and further such summary shall include a description of the activities the Department is performing in support of environmental, social, economic and institutional, biomedical, physical and safety research, development, demonstration, and monitoring activities necessary to guarantee that technological programs, funded by the Department, are undertaken in a manner consistent with and capable of maintaining or improving the quality of the environment and of mitigating any undesirable environmental and safety impacts;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal/State, and local governments and nongovernmental entities to achieve the purposes of this chapter;

(6) a summary of cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, together with plans for such efforts in the succeeding fiscal year, and recommendations for changes in laws and regulations needed to encourage more conservation and recycling by all segments of the Nation's populace;

(7) a summary of substantive measures taken by the Department to stimulate and encourage the development of new manpower resources through the Nation's colleges and universities and to involve these institutions in the execution of the Department's research and development programs; and

(8) to the extent practicable, a summary of activities in the United States by companies or persons which are foreign owned or controlled and which own or control United States energy sources and supplies, including the magnitude of annual foreign direct investment in the energy sector in the United States and exports of energy resources from the United States by foreign owned or controlled business entities or persons, and such other related matters as the Secretary may deem appropriate.

(Pub. L. 95-91, title VI, § 657, Aug. 4, 1977, 91 Stat. 603.)

REFERENCES IN TEXT

This chapter, referred to in par. (5), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7135, 7213 of this title.

§ 7268. Leasing report

The Secretary of the Interior shall submit to the Congress not later than one year after August 4, 1977, a report on the organization of the leasing operations of the Federal Government, together with any recommendations for reorganizing such functions may deem necessary or appropriate.

(Pub. L. 95-91, title VI, § 658, Aug. 4, 1977, 91 Stat. 604.)

§ 7269. Transfer of funds

The Secretary, when authorized in an appropriation Act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

(Pub. L. 95-91, title VI, § 659, Aug. 4, 1977, 91 Stat. 604.)

§ 7270. Authorization of appropriations

Appropriations to carry out the provisions of this chapter shall be subject to annual authorization.

(Pub. L. 95-91, title VI, § 660, Aug. 4, 1977, 91 Stat. 604.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7351 of this title.

SUBCHAPTER VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

§ 7291. Transfer and allocations of appropriations and personnel

(a) Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this chapter, subject to section 581c of title 31, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out function transferred by this chapter personnel occupying those positions on October 1, 1977, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312-5316) on October 1, 1977 shall be subject to the provisions of section 7293 of this title.

(Pub. L. 95-91, title VII, § 701, Aug. 4, 1977, 91 Stat. 605.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7212 of this title.

§ 7292. Effect on personnel

(a) Full-time and part-time personnel holding permanent positions

Except as otherwise provided in this chapter, the transfer pursuant to this subchapter of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this subchapter shall not cause any such employee to be separated or reduced in grade or compensation for one year after August 4, 1977, except that full-time temporary personnel employed at the Energy Research Centers of the Energy Research and Development Administration upon the establishment of the Department who are determined by the Department to be performing continuing functions may at the employee's option be converted to permanent full-time status within one hundred and twenty days following their transfer to the Department. The employment levels of full-time permanent personnel authorized for the Department by other law or administrative action shall be increased by the number of employees who exercise the option to be so converted.

(b) Person who held position compensated in accordance with chapter 53 of title 5

Any person who, on October 1, 1977, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

(c) Employees holding reemployment rights acquired under section 786 of title 15

Employees transferred to the Department holding reemployment rights acquired under section 786 of title 15 or any other provision of law or regulation may exercise such rights only within one hundred twenty days from October 1, 1977, or within two years of acquiring such rights, whichever is later. Reemployment rights may only be exercised at the request of the employee.

(Pub. L. 95-91, title VII, § 702, Aug. 4, 1977, 91 Stat. 605.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

This subchapter, referred to in subsec. (a), was, in the original, "this title" meaning title VII of Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 605, which enacted this subchapter and section 916 of Title 7, Agriculture, amended sections 6833 and 6839 of this title, section 19 of Title 3, The President, sections 101, 5108, and 5312 to 5316 of Title 5, Government Organization and Employees, section 1701z-8 of Title 12, Banks and Banking, and sections 766, 790a, and 790d of Title 15, Commerce and Trade, repealed sections 2036 and 5818 of this title and sections 763, 768 and 786 of Title 15, enacted provisions set out as a note under 2201 of this title, and repealed provisions set out as a note under section 761 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

Section 786 of title 15, referred to in subsec. (c), was repealed by Pub. L. 95-91, title VII, § 709(a)(1), Aug. 4, 1977, 91 Stat. 607.

EX. ORD. NO. 12026. REINSTATEMENT RIGHTS OF CERTAIN EMPLOYEES OF DEPARTMENT OF ENERGY

Ex. Ord. No. 12026, Dec. 5, 1977, 42 F.R. 61849, provided:

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, the service of an employee of the Atomic Energy Commission or of the Energy Research and Development Administration pursuant to a Regular or Regular (Conditional) appointment, other than such service in an attorney position, who was transferred to the Department of Energy pursuant to the Department of Energy Organization Act (91 Stat. 565; 42 U.S.C. 7101 *et seq.*) shall be considered as Career or Career-Condi-

tional service, respectively, for purposes of eligibility for reinstatement in the competitive Civil Service.

JIMMY CARTER.

§ 7293. Agency terminations

Except as otherwise provided in this chapter, whenever all of the functions vested by law in any agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this chapter, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

(Pub. L. 95-91, title VII, § 703, Aug. 4, 1977, 91 Stat. 606.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7291 of this title.

§ 7294. Incidental transfers

The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this chapter, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this chapter, as he may deem necessary to accomplish the purposes of this chapter.

(Pub. L. 95-91, title VII, § 704, Aug. 4, 1977, 91 Stat. 606.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7295. Savings provisions

(a) Orders, determinations, rules, etc., in effect prior to the effective date of this chapter

All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter to the Department or the Commission after August 4, 1977, and

(2) which are in effect on October 1, 1977,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, the Federal Energy Regulatory Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) Proceedings or applications for licenses, permits, etc., pending at the effective date of this chapter; regulations

(1) The provisions of this chapter shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending on October 1, 1977, before any department, agency, commission, or component thereof, functions of which are transferred by this chapter; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(2) The Secretary and the Commission are authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department or the Commission.

(c) Suits commenced prior to effective date of this chapter

Except as provided in subsection (e) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to October 1, 1977, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(d) Suits, actions, etc., commenced by or against any officer or agency or cause of action by or against any department or agency

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this chapter.

(e) Suits with officers, departments, or agencies as parties

If, before October 1, 1977, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

(Pub. L. 95-91, title VIII, § 705, Aug. 4, 1977, 91 Stat. 606.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (b)(1), (c) to (e), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7341 of this title.

§ 7296. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(Pub. L. 95-91, title VII, § 706, Aug. 4, 1977, 91 Stat. 607.)

REFERENCES IN TEXT

This chapter, referred to in text in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7297. Cross references

With respect to any functions transferred by this chapter and exercised after October 1, 1977, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, the Federal Energy Regulatory Commission, or other official or component of the Department in which this chapter vests such functions.

(Pub. L. 95-91, title VII, § 707, Aug. 4, 1977, 91 Stat. 607.)

REFERENCES IN TEXT

This chapter, referred to in text in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7298. Presidential authority

Except as provided in subchapter IV of this chapter, nothing contained in this chapter shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before October 1, 1977; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(Pub. L. 95-91, title VII, § 708, Aug. 4, 1977, 91 Stat. 607.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7299. Transition

With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this chapter.

(Pub. L. 95-91, title VII, § 711, Aug. 4, 1977, 91 Stat. 609.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7300. Civil Service Commission report

The Civil Service Commission shall, as soon as practicable but not later than one year after October 1, 1977, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this chapter which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this chapter;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this chapter;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Commission considers necessary.

(Pub. L. 95-91, title VII, § 712, Aug. 4, 1977, 91 Stat. 609.)

REFERENCES IN TEXT

This chapter, referred to in text preceding par. (1), pars. (1) and (2), in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7301. Environmental impact statements

The transfer of functions under subchapters III and IV of this chapter shall not affect the validity of any draft environmental impact statement published before October 1, 1977.

(Pub. L. 95-91, title VII, § 713, Aug. 4, 1977, 91 Stat. 610.)

SUBCHAPTER VIII—ENERGY PLANNING

§ 7321. National Energy Policy Plan

(a) Preparation by President and submission to Congress; formulation and review

The President shall—

(1) prepare and submit to the Congress a proposed National Energy Policy Plan (hereinafter in this subchapter referred to as a "proposed Plan") as provided in subsection (b) of this section;

(2) seek the active participation by regional, State, and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy are taken into account in the formulation and review of such proposed Plan;

(3) include within the proposed Plan a comprehensive summary of data pertaining to all fuel and energy needs of persons residing in—

(A) areas outside standard metropolitan statistical areas; and

(B) areas within standard metropolitan statistical areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas.

(b) Biennial transmittal to Congress; contents

Not later than April 1, 1979, and biennially thereafter, the President shall transmit to the Congress the proposed Plan. Such proposed Plan shall—

(1) consider and establish energy production, utilization, and conservation objectives, for periods of five and ten years, necessary to satisfy projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation, paying particular attention to the needs for full employment, price stability, energy security, economic growth, environmental protection, nuclear non-proliferation, special regional needs, and the efficient utilization of public and private resources;

(2) identify the strategies that should be followed and the resources that should be committed to achieve such objectives, forecasting the level of production and investment necessary in each of the significant energy supply sectors and the level of conservation and investment necessary in each consuming sector, and outlining the appropriate policies and actions of the Federal Government that will maximize the private production and investment necessary in each of the significant energy supply sectors consistent with applicable Federal, State, and local environmental laws, standards, and requirements; and

(3) recommend legislative and administrative actions necessary and desirable to achieve the objectives of such proposed Plan, including legislative recommendations with respect to taxes or tax incentives, Federal funding, regulatory actions, antitrust policy, foreign policy, and international trade.

(c) Submission of report to Congress; contents

The President shall submit to the Congress with the proposed Plan a report which shall include—

(1) whatever data and analysis are necessary to support the objectives, resource needs, and policy recommendations contained in such proposed Plan;

(2) an estimate of the domestic and foreign energy supplies on which the United States will be expected to rely to meet projected energy needs in an economic manner consistent with the need to protect the environment, conserve natural resources, and implement foreign policy objectives;

(3) an evaluation of current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to forestall energy shortages, to reduce waste, to foster recycling, to encourage conservation practices, and to otherwise protect environmental quality, including recommendations for developing technologies to accomplish such purposes; and

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of the Plan.

(d) Consultation with consumers, small businesses, etc.

The President shall insure that consumers, small businesses, and a wide range of other interests, including those of individual citizens who have no financial interest in the energy industry, are consulted in the development of the Plan.

(Pub. L. 95-91, title VIII, § 801, Aug. 4, 1977, 91 Stat. 610.)

§ 7322. Congressional review

(a) Each proposed Plan shall be referred to the appropriate committees in the Senate and the House of Representatives.

(b) Each such committee shall review the proposed Plan and, if it deems appropriate and necessary, report to the Senate or the House of Representatives legislation regarding such Plan which may contain such alternatives to, modifications of, or additions to the proposed Plan submitted by the President as the committee deems appropriate.

(Pub. L. 95-91, title VIII, § 802, Aug. 4, 1977, 91 Stat. 611.)

SUBCHAPTER IX—EFFECTIVE DATE AND INTERIM APPOINTMENTS

§ 7341. Effective date

The provisions of this chapter shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after August 4, 1977, (1) any of the officers provided for in subchapters II and IV of this chapter may be nominated and appointed, as provided in those subchapters, and (2) the Secretary and the Commission may promulgate regulations pursuant to section 7295(b)(2) of this title at any time after August 4, 1977. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary or the Commission by this chapter, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(Pub. L. 95-91, title IX, § 901, Aug. 4, 1977, 91 Stat. 612.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

EX. ORD. NO. 12009. EFFECTUATION OF DEPARTMENT OF ENERGY ORGANIZATION ACT

Ex. Ord. No. 12009, Sept. 13, 1977, 42 F.R. 46267, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Department of Energy Organization Act (Public Law 95-91; 91 Stat. 565) [this chapter], and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Pursuant to Section 901 of the Department of Energy Organization Act [this section], I hereby prescribe October 1, 1977, as the effective date of that Act.

SEC. 2. The Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, as appropriate, shall take all steps necessary or appropriate to ensure or effectuate the transfer of functions provided for in the Department of Energy Organization Act, to the extent required or permitted by law, including transfer of funds, personnel and positions, assets, liabilities, contracts, property, records and other items related to the transfer of functions, programs, or authorities.

SEC. 3. As required by Section 901 of the Department of Energy Organization Act [this section], this Order shall be published in the FEDERAL REGISTER.

JIMMY CARTER.

§ 7342. Interim appointments

In the event that one or more officers required by this chapter to be appointed by and with the advice and consent of the Senate shall not have entered upon office on October 1, 1977, the President may designate any officer, whose appointment was required to be made, by and with the advice and consent of the Senate, and who was such an officer immediately prior to October 1, 1977, to act in such office until the office is filled as provided in this chapter. While so acting such persons shall receive compensation at the rates provided by this chapter for the respective offices in which they act.

(Pub. L. 95-91, title IX, § 902, Aug. 4, 1977, 91 Stat. 612.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, known as the Department of Energy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SUBCHAPTER X—SUNSET PROVISIONS

§ 7351. Submission of comprehensive review

Not later than January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review of each program of the Department. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds, pursuant to section 7270 of this title, for such programs for the fiscal year beginning October 1, 1982.

(Pub. L. 95-91, title X, § 1001, Aug. 4, 1977, 91 Stat. 612.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7352 of this title.

§ 7352. Contents of review

Each comprehensive review prepared for submission under section 7351 of this title shall include—

(1) the name of the component of the Department responsible for administering the program;

(2) an identification of the objectives intended for the program and the problem or need which the program was intended to address;

(3) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

(6) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

(7) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and of the budgetary costs incurred in the operation of the program;

(8) a statement of the number and types of beneficiaries or persons served by the program;

(9) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, and price inflation, including costs to consumers and to businesses;

(10) an assessment of the impact of the program on the Nation's health and safety;

(11) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in establishing the program;

(12) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

(13) an analysis of the services which could be provided and performance which could be achieved if the program were continued at a level less than, equal to, or greater than the existing level; and

(14) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executives or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.

(Pub. L. 95-91, title X, § 1002, Aug. 4, 1977, 91 Stat. 612.)

CHAPTER 85—AIR POLLUTION PREVENTION AND CONTROL [NEW]

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CODIFICATION

Act July 14, 1955, ch. 360, 69 Stat. 322, as amended, known as the Clean Air Act, which was formerly classified to chapter 15B (§ 1857 et seq.) of this title, was completely revised by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685, and was reclassified to this chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4365, 4905, 6211, 6901, 6905, 6907, 6949 of this title; title 15 sections 793, 798, 2080, 2617; title 16 section 1456; title 23 section 109; title 26 sections 48, 169; title 30 sections 201, 1251, 1253, 1292, 1303; title 33 sections 1502, 1503; title 49 section 1604.

SUBCHAPTER I—PROGRAMS AND ACTIVITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7607 of this title.

PART A—AIR QUALITY AND EMISSION LIMITATIONS

AMENDMENTS

1977—Pub. L. 95-95, title I, § 117(a), Aug. 7, 1977, 91 Stat. 712, designated sections 7401 to 7428 of this title as Part A.

§ 7401. Congressional findings and declaration of purpose

(a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation;

(3) that the prevention and control of air pollution at its source is the primary responsibility of States and local governments; and

(4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution.

(b) The purposes of this subchapter are—

(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

(4) to encourage and assist the development and operation of regional air pollution control programs.

(July 14, 1955, ch. 360, title I, § 101, formerly § 1, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 392, and amended and renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(2), (3), 79 Stat. 992; Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 485.)

CODIFICATION

Section was formerly classified to section 1857 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in a prior section 1857 of this title, act of July 14, 1955, ch. 360, § 1, 69 Stat. 322, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1967—Subsec. (b)(1). Pub. L. 90-148 inserted "and enhance the quality of" following "to protect".

1965—Subsec. (b). Pub. L. 89-272 substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter".

EFFECTIVE DATE OF 1977 AMENDMENT; PENDING ACTIONS; CONTINUATION OF RULES, CONTRACTS, AUTHORIZATIONS, ETC.; IMPLEMENTATION PLANS

Section 406 of Pub. L. 95-95, as amended by Pub. L. 95-190, § 14(b)(6), Nov. 16, 1977, 91 Stat. 1405, provided that:

"(a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act [this chapter], as in effect immediately prior to the date of enactment of this Act [Aug. 7, 1977] shall abate by reason of the taking effect of the amendments made by this Act [see Short Title of 1977 Amendment note below]. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

"(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Clean Air Act [this chapter], as in effect immediately prior to the date of enactment of this Act [Aug. 7, 1977], and pertaining to any functions, powers, requirements, and duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act [see Short Title of 1977 Amendment note below].

"(c) Nothing in this Act [see Short Title of 1977 Amendment note below] nor any action taken pursuant to this Act shall in any way affect any requirement of an approved implementation plan in effect under section 110 of the Clean Air Act [section 7410 of this title] or any other provision of the Act in effect under the Clean Air Act before the date of enactment of this section [Aug. 7, 1977] until modified or rescinded in accordance with the Clean Air Act [this chapter] as amended by this Act [see Short Title of 1977 Amendment note below].

"(d)(1) Except as otherwise expressly provided, the amendments made by this Act [see Short Title of 1977 Amendment note below] shall be effective on date of enactment [Aug. 7, 1977].

"(2) Except as otherwise expressly provided, each State required to revise its applicable implementation plan by reason of any amendment made by this Act [see Short Title of 1977 Amendment note below] shall adopt and submit to the Administrator of the Environmental Protection Administration such plan revision before the later of the date—

"(A) one year after the date of enactment of this Act [Aug. 7, 1977], or

"(B) nine months after the date of promulgation by the Administrator of the Environmental Protection Administration of any regulations under an amendment made by this Act [see Short Title of 1977 Amendment note below] which are necessary for the approval of such plan revision."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-95, § 1, Aug. 7, 1977, 91 Stat. 685, provided that: "This Act [enacting sections 4362, 7419 to 7428, 7450 to 7459, 7470 to 7479, 7491, 7501 to 7508, 7548, 7549, 7551, 7617 to 7625, and 7626 of this title, amending sections 7403, 7405, 7407 to 7415, 7417, 7418, 7521 to 7525, 7541, 7543, 7544, 7545, 7550, 7571, 7601 to 7605, 7607, 7612, 7613, and 7616 of this title, repealing section 1857c-10 of this title, and enacting provisions set out as notes under sections 7401, 7403, 7422, 7470, 7479, 7502, 7521, 7548, and 7621 of this title and section 792 of Title 15, Commerce and Trade] may be cited as the 'Clean Air Act Amendments of 1977' ".

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-604, § 1, Dec. 31, 1970, 84 Stat. 1676, provided: "That this Act [amending this chapter generally] may be cited as the 'Clean Air Amendments of 1970'."

Section 401 of act July 14, 1955, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709, provided that: "This title [subchapter IV of this chapter] may be cited as the 'Noise Pollution and Abatement Act of 1970'."

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90-148 provided: "That this Act [amending this chapter generally] may be cited as the 'Air Quality Act of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89-675, § 1, Oct. 15, 1966, 80 Stat. 954, provided: "That this Act [amending sections 7405 and 7616 of this title and repealing section 1857f-8 of this title] may be cited as the 'Clean Air Act Amendments of 1966'."

SHORT TITLE OF 1965 AMENDMENT

Section 201 of act July 14, 1955, as added by Pub. L. 89-272, title I, § 101(8), Oct. 20, 1965, 79 Stat. 992, and amended by Pub. L. 90-148, § 2, Nov. 2, 1967, 81 Stat. 499, provided that: "This title [subchapter II of this chapter] may be cited as the 'National Emission Standards Act'." Prior to its amendment by Pub. L. 90-148, title II of act June 14, 1955, was known as the "Motor Vehicle Air Pollution Control Act".

SHORT TITLE

Section 317, formerly section 14, of Act July 14, 1955, as added by section 1 of Pub. L. 88-206, renumbered section 307 by section 101(4) of Pub. L. 89-272, renumbered section 310 by section 2 of Pub. L. 90-148, and renumbered section 317 by Pub. L. 91-604, § 12(a), Dec. 31, 1970, 84 Stat. 1705, provided that: "This Act [this chapter] may be cited as the 'Clean Air Act'."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

STUDY OF ODORS AND ODOROUS EMISSIONS

Pub. L. 95-95, title IV, § 403(b), Aug. 7, 1977, 91 Stat. 792, provided that: "The Administrator of the Environmental Protection Agency shall conduct a study and report to the Congress not later than January 1, 1979, on the effects on public health and welfare of odors and odorous emissions, the sources of such emissions, the technology or other measures available for control of such emissions and the costs of such technology or measures, and the costs and benefits of alternative measures or strategies to abate such emissions. Such report shall include an evaluation of whether air quality criteria or national ambient air

quality standards should be published under the Clean Air Act [this chapter] for odors, and what other strategies or authorities under the Clean Air Act are available or appropriate for abating such emissions."

List of Chemical Contaminants From Environmental Pollution Found in Human Tissue

Pub. L. 95-95, title IV, § 403(c), Aug. 7, 1977, 91 Stat. 792, provided that:

"(1) Not later than twelve months after the date of enactment of this Act [Aug. 7, 1977] the Administrator of the Environmental Protection Agency shall publish throughout the United States a list of all known chemical contaminants resulting from environmental pollution which have been found in human tissue including blood, urine, breast milk, and all other human tissue. Such list shall be prepared for the United States and shall indicate the approximate number of cases, the range of levels found, and the mean levels found.

"(2) Not later than eighteen months after the date of enactment of this Act [Aug. 7, 1977] the Administrator shall publish in the same manner an explanation of what is known about the manner in which the chemicals described in paragraph (1) entered the environment and thereafter human tissue.

"(3) The Administrator, in consultation with National Institutes of Health, the National Center for Health Statistics, and the National Center for Health Services Research and Development, shall, if feasible, conduct an epidemiological study to demonstrate the relationship between levels of chemicals in the environment and in human tissue. Such study shall be made in appropriate regions or areas of the United States in order to determine any different results in such regions or areas. The results of such study shall, as soon as practicable, be reported to the appropriate committee of the Congress."

Study on Regional Air Quality

Pub. L. 95-95, title IV, § 403(d), Aug. 7, 1977, 91 Stat. 793, provided that: "The Administrator of the Environmental Protection Agency shall conduct a study of air quality in various areas throughout the country including the gulf coast region. Such study shall include analysis of liquid and solid aerosols and other fine particulate matter and the contribution of such substances to visibility and public health problems in such areas. For the purposes of this study, the Administrator shall use environmental health experts from the National Institutes of Health and other outside agencies and organizations."

Railroad Emission Study

Pub. L. 95-95, title IV, § 404, Aug. 7, 1977, 91 Stat. 793, provided that:

"(a) The Administrator of the Environmental Protection Agency shall conduct a study and investigation of emissions of air pollutants from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock, in order to determine—

"(1) the extent to which such emissions affect air quality in air quality control regions throughout the United States,

"(2) the technological feasibility and the current state of technology for controlling such emissions, and

"(3) the status and effect of current and proposed State and local regulations affecting such emissions.

"(b) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall submit a report of such study and investigation, together with recommendations for appropriate legislation, to the Senate Committee on Environment and Public Works and the House Committee on Interstate and Foreign Commerce."

Study and Report Concerning Economic Approaches to Controlling Air Pollution

Pub. L. 95-95, title IV, § 405, Aug. 7, 1977, 91 Stat. 794, provided that:

"(a) The Administrator, in conjunction with the Council of Economic Advisors (hereinafter in this section referred to as 'the Council'), shall undertake a study and assessment of economic measures for the control of air pollution which could—

"(1) strengthen the effectiveness of existing methods of controlling air pollution,

"(2) provide incentives to abate air pollution to a greater degree than is required by existing provisions of the Clean Air Act [this chapter] (and regulations thereunder), and

"(3) serve as the primary incentive for controlling air pollution problems not addressed by any provision of the Clean Air Act [this chapter] (or any regulation thereunder).

"(b) The study of measures referred to in paragraph (1) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control are not effective because of economic incentives to delay compliance and (2) formulation of economic measures which could be taken with respect to each such air pollution problem which would provide an incentive to comply without interfering with such existing methods of control.

"(c) The study of measures referred to in paragraph (2) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control may not be sufficiently extensive to achieve all desired environmental goals and (2) formulation of economic measures for each such air pollution problem which would provide additional incentives to reduce air pollution without—

"(A) interfering with the effectiveness of existing methods of control, or

"(B) creating problems similar to those which prevent alternative regulatory methods from being used to reach such environmental goals.

"(d) The study of the measures referred to in paragraph (3) of subsection (a) shall concentrate on (1) identification of air pollution problems for which no existing methods of control exist, (2) formulation of economic measures to reduce such pollution, and (3) comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

"(e) In conducting the study under this section, a preliminary screening should be made of the problems referred to in subsections (b)(1), (c)(1), and (d)(1) and economic measures should be formulated under subsections (b)(2), (c)(2), and (d)(2) in the most promising cases, giving special attention to structural and administrative problems. In formulating any such measure which provides for a charge, the appropriate level of the charge should be determined, if possible, and the environmental and economic impacts should be identified.

"(f) Within one year after the date of enactment of this Act [Aug. 7, 1977], the Administrator shall complete a study and report to the Congress on the advantages and disadvantages (including an analysis of the feasibility) of establishing a system of penalties for stationary sources on emissions of oxides of nitrogen and make recommendation regarding the establishment of such a system. Such study shall determine if such a system will effectively encourage the development of more effective systems and technologies for control of emissions of oxides of nitrogen for new major emitting facilities, or existing major emitting facilities, or both. In any case in which a proposed penalty system is recommended by the Administrator, the report should include—

"(1) a recommendation respecting the appropriate period during which such system of penalties should

apply, and the appropriate termination date or dates for such system, if any, taking into account—

"(A) the time at which adequate technology may reasonably be anticipated to be available to control oxides of nitrogen for that category of facilities,

"(B) the degree to which such technology can be expected to be used on such facilities, and

"(C) the Administrator's authorities to require the use of such technology, and

"(2) recommendations respecting the compilation of records by facilities subject to such penalties for purposes of determining the applicability and amount of such penalty.

"(g) Not later than two years after the date of the enactment of this section [Aug. 7, 1977], the Administrator and the Council shall conclude the study and assessment under this section and submit a report containing the results thereof to the President and to the Congress. Interim reports on specific pollution problems and solutions recommended shall be made available to the President and the Congress by the Administrator whenever available."

EXECUTIVE ORDER No. 10779

Ex. Ord. No. 10779, Aug. 21, 1958, 23 F.R. 6487, which related to cooperation of Federal agencies with State and local authorities, was superseded by Ex. Ord. No. 11282, May 26, 1966, 31 F.R. 7663.

EXECUTIVE ORDER No. 11507

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, which provided for the prevention, control, and abatement of air pollution at federal facilities was superseded by Ex. Ord. No. 11752.

EXECUTIVE ORDER No. 11523

For provisions relating to the establishment of the National Industrial Pollution Control Council, see Ex. Ord. No. 11523, Apr. 9, 1970, 35 F.R. 5993, set out as a note under section 4321 of this title.

EXECUTIVE ORDER No. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provided for the prevention, control, and abatement of environmental pollution at federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7471, 7476 of this title.

§ 7402. Cooperative activities

(a) Interstate cooperation; uniform State laws; State compacts

The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

(b) Federal cooperation.

The Administrator shall cooperate with and encourage cooperative activities by all Federal departments and agencies having functions relating to the prevention and control of air pollution, so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government.

(c) Consent of Congress to compacts

The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress. It is the intent of Congress that no agreement or compact entered into between States after November 21, 1967, which relates to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

(July 14, 1955, ch. 360, title I, § 102, formerly § 2, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 393, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 485; Dec. 31, 1970, Pub. L. 91-604, § 15(c)(2), 84 Stat. 1713.)

CODIFICATION

Section was formerly classified to section 1857a of this title.

PRIOR PROVISIONS

Provisions similar to those comprising the first clause of subsec. (a) of this section were contained in subsec. (b)(1) of a prior section 1857a, of this title, act July 14, 1955, ch. 360, § 2, 69 Stat. 322, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsecs. (a), (b). Pub. L. 91-604 substituted "Administrator" for "Secretary" wherever appearing therein.

1967—Subsec. (c). Pub. L. 90-148 added declaration that it is the intent of Congress that no agreement or compact entered into between States after the date of enactment of the Air Quality Act of 1967, which for purposes of codification was changed to November 21, 1967, the date of approval of such Act, relating to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

§ 7403. Research, investigation, training, and other activities

(a) Research and development program for prevention and control of air pollution

The Administrator shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution;

(2) encourage, cooperate with, and render technical services and provide financial assist-

ance to air pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals in the conduct of such activities;

(3) conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the pollution is located;

(4) establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research, and

(5) conduct and promote coordination and acceleration of training for individuals relating to the causes, effects, extent, prevention, and control of air pollution.

(b) Authorized activities of Administrator in establishing research and development program

In carrying out the provisions of the preceding subsection the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

(2) cooperate with other Federal departments and agencies, with air pollution control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities;

(3) make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in subsection (a)(1) of this section;

(4) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to section 529 of title 31 and section 5 of title 41;

(5) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying air quality and other information pertaining to air pollution and the prevention and control thereof; and

(7) develop effective and practical processes, methods, and prototype devices for the prevention or control of air pollution.

In carrying out the provisions of subsection (a) of this section, the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications and make grants to such agencies, to other public or nonprofit private agencies, institutions, and organizations for the purposes stated in subsection (a)(5) of this section. Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge.

(c) Results of other scientific studies

In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known air pollutants.

(d) Construction of facilities

The Administrator is authorized to construct such facilities and staff and equip them as he determines to be necessary to carry out his functions under this chapter.

(e) Potential air pollution problems; conferences; findings and recommendations of Administrator

If in the judgment of the Administrator, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, he may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Administrator. If the Administrator finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under section 7415 of this title, he shall send such findings, together with recommendations concerning the measures which he finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (b), (c), (d), (e), and (f) of section 7415 of this title.

(f) Accelerated research programs

(1) In carrying out research pursuant to this chapter, the Administrator shall give special emphasis to research on the short- and long-term effects of air pollutants on public health

and welfare. In the furtherance of such research, he shall conduct an accelerated research program—

(A) to improve knowledge of the contribution of air pollutants to the occurrence of adverse effects on health, including, but not limited to, behavioral, physiological, toxicological, and biochemical effects; and

(B) to improve knowledge of the short- and long-term effects of air pollutants on welfare.

(2) In carrying out the provisions of this subsection the Administrator may—

(A) conduct epidemiological studies of the effects of air pollutants on mortality and morbidity;

(B) conduct clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including carcinogenic, teratogenic, and mutagenic effects of air pollutants;

(C) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers;

(D) utilize the authority contained in paragraphs (1) through (4) of subsection (b) of this section; and

(E) consult with other appropriate Federal agencies to assure that research or studies conducted pursuant to this subsection will be coordinated with research and studies of such other Federal agencies.

(3) In entering into contracts under this subsection, the Administrator is authorized to contract for a term not to exceed 10 years in duration. For the purposes of this paragraph, there are authorized to be appropriated $15,000,000. Such amounts as are appropriated shall remain available until expended and shall be in addition to any other appropriations under this chapter.

(July 14, 1955, ch. 360, title I, § 103, formerly § 3, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 394, and amended and renumbered Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(3), 103, 79 Stat. 992, 996; Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 486; Dec. 31, 1970, Pub. L. 91-604, §§ 2(a), 4(2), 15(a)(2), (c)(2), 84 Stat. 1676, 1689, 1710, 1713; Aug. 7, 1977, Pub. L. 95-95, title I, § 101(a), (b), 91 Stat. 686, 687.)

Codification

Section was formerly classified to section 1857b of this title.

Prior Provisions

Provisions similar to those comprising subsec. (a)(3) of this section were contained in subsec. (a) of a prior section 1857b of this title, act July 14, 1955, ch. 360, § 3, 69 Stat. 322, as amended Oct. 9, 1962, Pub. L. 87-761, § 2, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206.

Provisions similar to those comprising this section were contained in prior sections 1857a to 1857d of this title, act July 14, 1955, ch. 360, §§ 2 to 5, 69 Stat. 322 (section 1857b as amended Oct. 9, 1962, Pub. L. 87-761, § 2, 76 Stat. 760; section 1857d as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646 and Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760), prior to the general amendment of this chapter by Pub. L. 88-206.

Amendments

1977—Subsec. (a). Pub. L. 95-95, § 101(b), struck out reference to "training" in par. (1) and added par. (5).

Subsec. (b). Pub. L. 95-95, § 101(a), struck out par. (5), which provided for training and training grants to personnel of air pollution control agencies and other persons with suitable qualifications, redesignated pars. (6), (7), and (8) as (5), (6), and (7), respectively, and, following par. (7) as so redesignated, added provisions directing the Administrator, in carrying out subsec. (a), to provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications and to make grants to such agencies, to other public or nonprofit private agencies, institutions, and organizations for the purposes stated in subsec. (a)(5) and allowing reasonable fees to be charged for such training provided to persons other than personnel of air pollution control agencies but requiring that such training be provided to such personnel of air pollution control agencies without charge.

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (c). Pub. L. 91-604, § 15(a)(2), (c)(2), substituted "Administrator" for "Secretary" and "air pollutants" for "air pollution agents (or combinations of agents)".

Subsec. (d). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, §§ 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein, substituted "7415" for "7415(a)", and added references to subsecs. (b) and (c) of section 7415 of this title.

Subsec. (f). Pub. L. 91-604, § 2(a), added subsec. (f).

1967—Subsec. (a). Pub. L. 90-148 substituted "establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research" for "initiate and conduct a program of research directed toward the development of improved, low-cost techniques for extracting sulfur from fuels" as clause (4) and struck out clause (5) which related to research programs relating to the control of hydrocarbon emissions from evaporation of gasoline and nitrogen and aldehyde oxide emission from gasoline and diesel powered vehicles and relating to the development of improved low cost techniques to reduce emissions of oxides of sulfur produced by the combustion of sulfur-containing fuels.

Subsec. (c). Pub. L. 90-148 struck out provision for the promulgation of criteria in the case of particular air pollution agents present in the air in certain quantities reflecting the latest scientific knowledge and allowing for availability and revision and provided for the recommendation by the Secretary of air quality criteria.

Subsec. (e). Pub. L. 90-148 substituted references to subsections (d), (e), and (f) of section 7415 of this title for references to subsections (c), (d), and (e) of section 7415 of this title in the provision for the admission of advisory findings and recommendations together with the record of the conference and made such findings and recommendations part of the proceedings of the conference, not merely part of the record of proceedings.

1965—Subsec. (a)(5). Pub. L. 89-272, § 103(3), added par. (5).

Subsecs. (d), (e). Pub. L. 89-272, § 103(4), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

CONSULTATION WITH COMMITTEE ON SCIENCE AND TECHNOLOGY OF HOUSE OF REPRESENTATIVES

Section 101(c) of Pub. L. 95-95 provided that: "The Administrator of the Environmental Protection Agency shall consult with the House Committee on Science and Technology on the environmental and atmospheric research, development, and demonstration aspects of this Act [See Short Title of 1977 Amendment note under section 7401 of this title]. In addition, the reports and studies required by this Act that relate to research, development, and demonstration issues shall be transmitted to the Committee on Science and Technology at the same time they are made available to other committees of the Congress."

STUDY OF SUBSTANCES DISCHARGED FROM EXHAUSTS OF MOTOR VEHICLES

Pub. L. 86-493, June 8, 1960, 74 Stat. 162, directed the Surgeon General of the Public Health Service to conduct a thorough study for the purposes of determining, with respect to the various substances discharged from the exhausts of motor vehicles, the amounts and kinds of such substances which, from the standpoint of human health, it is safe for motor vehicles to discharge into the atmosphere under the various conditions udner which such vehicles may operate. Not later than two years after June 8, 1960, the Surgeon General was required to submit to Congress a report on the results of the study, together with such recommendations, if any, based upon the findings made in such study, as he deemed necessary for the protection of the public health.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7626 of this title.

§ 7404. Research relating to fuels and vehicles

(a) Research programs; grants; contracts; pilot and demonstration plants; byproducts research

The Administrator shall give special emphasis to research and development into new and improved methods, having industry-wide application, for the prevention and control of air pollution resulting from the combustion of fuels. In furtherance of such research and development he shall—

(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques for—

(A) control of combustion byproducts of fuels,

(B) removal of potential air pollutants from fuels prior to combustion,

(C) control of emissions from the evaporation of fuels,

(D) improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and

(E) producing synthetic or new fuels which, when used, result in decreased atmospheric emissions.

(2) provide for Federal grants to public or nonprofit agencies, institutions, and organizations and to individuals, and contracts with public or private agencies, institutions, or persons, for payment of (A) part of the cost of acquiring, constructing, or otherwise securing for research and development purposes, new or improved devices or methods having industrywide application of preventing or controlling discharges into the air of various types of pollutants; (B) part of the cost of programs to develop low emission alternatives to the present internal combustion engine; (C) the cost to purchase vehicles and vehicle engines, or portions thereof, for research, development, and testing purposes; and (D) carrying out the other provisions of this section, without regard to section 529 of title 31 and section 5 of title 41: *Provided,* That research or demonstration contracts awarded pursuant to this subsection (including contracts for construction) may be made in accordance with, and subject to the limitations provided with respect to research contracts of the military departments in, section 2353 of title 10, except that the determination, approval, and certification required thereby shall be made by the Secretary: *Provided further,* That no grant may be made under this paragraph in excess of $1,500,000;

(3) determine, by laboratory and pilot plant testing, the results of air pollution research and studies in order to develop new or improved processes and plant designs to the point where they can be demonstrated on a large and practical scale;

(4) construct, operate, and maintain, or assist in meeting the cost of the construction, operation, and maintenance of new or improved demonstration plants or processes which have promise of accomplishing the purposes of this chapter;

(5) study new or improved methods for the recovery and marketing of commercially valu-

able byproducts resulting from the removal of pollutants.

(b) Powers of Administrator in establishing research and development programs

In carrying out the provisions of this section, the Administrator may—

(1) conduct and accelerate research and development of low-cost instrumentation techniques to facilitate determination of quantity and quality of air pollutant emissions, including, but not limited to, automotive emissions;

(2) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories;

(3) establish and operate necessary facilities and test sites at which to carry on the research, testing, development, and programming necessary to effectuate the purposes of this section;

(4) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, and facilities, and other property or rights by purchase, license, lease, or donation; and

(5) cause on-site inspections to be made of promising domestic and foreign projects, and cooperate and participate in their development in instances in which the purposes of the chapter will be served thereby.

(c) Authorization of appropriations

For the purposes of this section there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, $125,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975. Amounts appropriated pursuant to this subsection shall remain available until expended.

(July 14, 1955, ch. 360, title I, § 104, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 487, and amended Dec. 5, 1979, Pub. L. 91-137, 83 Stat. 283; Dec. 31, 1970, Pub. L. 91-604, §§ 2(b), (c), 13(a), 15(c)(2), 84 Stat. 1676, 1677, 1709, 1713; Apr. 9, 1973, Pub. L. 93-15, § 1(a), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(a), 88 Stat. 265.)

CODIFICATION

Section was formerly classified to section 1857b-1 of this title.

PRIOR PROVISIONS

A prior section 104 of act July 14, 1955, was renumbered section 105 by Pub. L. 90-148 and is set out as section 7405 of this title.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-319 authorized appropriation of $150,000,000 for the fiscal year ending June 30, 1975.

1973—Subsec. (c). Pub. L. 93-15 authorized appropriation of $150,000,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (a)(1). Pub. L. 91-604, § 2(b), added provisions authorizing research programs directed toward development of techniques for improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and producing synthetic or new fuels which result in decreased atmospheric emissions.

Subsec. (a)(2). Pub. L. 91-604, § 2(c), added cls. (B) and (C). Former cl. (B) was redesignated as (D).

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (c). Pub. L. 91-604, § 13(a), substituted provisions authorizing appropriations for fiscal years ending June 30, 1971, 1972, and 1973, for provisions authorizing appropriations for the fiscal years ending June 30, 1968 and 1969.

1969—Subsec. (c). Pub. L. 91-137 authorized appropriation of $45,000,000 for the fiscal year ending June 30, 1970.

EXTENSION TO AUG. 31, 1970 OF AUTHORIZATION PERIOD FOR FISCAL YEAR 1970

Pub. L. 91-316, July 10, 1970, 84 Stat. 416, provided in part that the authorization contained in section 104(c) of the Clean Air Act [subsec. (c) of this section] for the fiscal year ending June 30, 1970, should remain available through Aug. 31, 1970, notwithstanding any provisions of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7491, 7626 of this title.

§ 7405. Grants for support of air pollution planning and control programs

(a) Amounts; limitations; assurances of plan development capability

(1)(A) The Administrator may make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining, programs for the prevention and control of air pollution or implementation of national primary and secondry [1] ambient air quality standards.

(B) Subject to subparagraph (C), the Administrator may make grants to air pollution control agencies within the meaning of paragraph (1), (2), or (4) of section 7602(b) of this title in an amount up to three-fourths of the cost of planning, developing, establishing, or improving, and up to three-fifths of the cost of maintaining, any program for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in an area that includes two or more municipalities, whether in the same or different States.

(C) With respect to any air quality control region or portion thereof for which there is an applicable implementation plan under section 7410 of this title, grants under subparagraph (B) may be made only to air pollution control agencies which have substantial responsibilities for carrying out such applicable implementation plan.

(2) Before approving any grant under this subsection to any air pollution control agency within the meaning of sections 7602(b)(2) and 7602(b)(4) of this title, the Administrator shall receive assurances that such agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international, interests in the air quality control region.

[1] So in original. Probably should be "secondary".

(3) Before approving any planning grant under this subsection to any air pollution control agency within the meaning of sections 7602(b)(2) and 7602(b)(4) of this title, the Administrator shall receive assurances that such agency has the capability of developing a comprehensive air quality plan for the air quality control region, which plan shall include (when appropriate) a recommended system of alerts to avert and reduce the risk of situations in which there may be imminent and serious danger to the public health or welfare from air pollutants and the various aspects relevant to the establishment of air quality standards for such air quality control region, including the concentration of industries, other commercial establishments, population and naturally occurring factors which shall affect such standards.

(b) Terms and conditions; regulations; factors for consideration; maintenance of effort; waiver of maintenance of effort requirement; consultation requirement

From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to air pollution control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purpose of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential air pollution problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

(c) State expenditure limitation

Not more than 10 per centum of the total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends. In fiscal year 1978 and subsequent fiscal years, subject to the provisions of subsection (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.

(d) Reduction of payments; availability of reduced amounts; reduced amount as deemed paid to agency for purpose of determining amount of grant

The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 7601 of this title, when such detail is for the convenience of, and at the request of, such recipient and for the purpose of carrying out the provisions of this chapter. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

(e) Notice and opportunity for hearing when affected by adverse action

No application by a State for a grant under this section may be disapproved by the Administrator without prior notice and opportunity for a public hearing in the affected State, and no commitment or obligation of any funds under any such grant may be revoked or reduced without prior notice and opportunity for a public hearing in the affected State (or in one of the affected States if more than one State is affected).

(July 14, 1955, ch. 360, title I, § 105, formerly § 4, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 395, renumbered § 104 and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(2)-(4), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 3, 80 Stat. 954, and renumbered § 105 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 489; Dec. 31, 1970, Pub. L. 91-604, §§ 3(a), (b)(1), 15(c)(2), 84 Stat. 1677, 1713; Aug. 7, 1977, Pub. L. 95-95, title I, § 102, title III, § 305(b), 91 Stat. 687, 776.)

CODIFICATION

Section was formerly classified to section 1857c of this title.

PRIOR PROVISIONS

A prior section 105 of act July 14, 1955, was renumbered section 108 by Pub. L. 90-148 and is set out as section 7415 of this title.

A prior section 4 of act July 14, 1955, ch. 360, 69 Stat. 322, which was classified to a prior section 1857c of this title, related to the preparation of reports and recommendations prior to the general amendment by Pub. L. 88-206. See section 7403 of this title.

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in a prior section 1857d of this title, act July 14, 1955, ch. 360, § 5,

69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, prior to the general amendment by Pub. L. 88-206.

AMENDMENTS

1977—subsec. (b). Pub. L. 95-95, § 102(a), added ", unless the Administrator, after notice and opportunity for hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government" following "will be less than its expenditures were for such programs during the preceding fiscal year".

Subsec. (c). Pub. L. 95-95, § 102(b), provided that in fiscal year 1978 and subsequent fiscal years, subject to the provisions of subsec. (b) of this section, no State shall receive less tha one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.

Subsec. (e). Pub. L. 95-95, § 305(b), added subsec. (e).

1970—Subsec. (a)(1). Pub. L. 91-604, § 3(a), substituted provisions authorizing the Administrator to make grants, for provisions authorizing the Secretary to make grants, and provisions authorizing grants for programs implementing national primary and secondary ambient air quality standards, for provisions authorizing grants for programs implementing air quality standards authorized by this subchapter, and added the provision requiring grants to air pollution control agencies be made to agencies having substantial responsibilities for carrying out the applicable implementation plan with respect to the air quality control region or portion thereof.

Subsecs. (a)(2), (3), (b), (c). Pub. L. 91-604, § 15(c)(2) substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (d). Pub. L. 91-604, § 3(b)(1), added subsec. (d).

1967—Subsec. (a). Pub. L. 90-148 designated existing provisions as par. (1), added pars. (2) and (3), and, in par. (1) as so designated, substituted "regional air quality control program" for "regional air pollution control program," added planning to the list of authorized activities, and added programs for the implementation of air quality standards authorized by this chapter to the list of authorized programs.

Subsec. (b). Pub. L. 90-148 made minor changes in the order of the provisions.

Subsec. (c). Pub. L. 90-148 reduced the percentage limitation on the portion of the total funds which might be granted for air pollution control programs in any one State from 12½ per centum to 10 per centum.

1966—Subsec. (a). Pub. L. 89-675, § 3(a)(1), struck out provisions limiting the available funds to 20 per centum of the sums appropriated annually for the purpose of this subchapter, inserted provisions allowing grants to air pollution control agencies up to one-half of the cost of maintaining programs for prevention and control of air pollution, and authorized the Secretary to make grants of up to three-fifths of the cost of maintaining regional air pollution control programs.

Subsec. (b). Pub. L. 89-675, § 3(a)(2), substituted reference to sums available "for the purpose of" subsection (a) of this section for reference to sums available "under" subsection (a) of this section, permitted grantees to reduce annual expenditures to the extent that nonrecurrent costs are involved for purposes of application of the provision that no agency may receive grants during any fiscal year when its expenditures of non-Federal funds for air pollution control programs are less than its expenditures for such programs during the preceding year, and added provisions insuring that Federal funds will in no event be used to supplant State or local government funds in maintaining air pollution control programs.

Subsec. (c). Pub. L. 89-675, § 3(b), substituted "total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs" for "grant funds available under subsection (a) of this section shall be expended" and authorized the Secretary to determine the portion of grants to interstate agencies to be charged against the twelve and one-half percent limitation of grant funds to any one State.

1965—Subsec. (a). Pub. L. 89-272 substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter", and "section 302(b)(2) and (4)" for "section 9(b)(2) and (4)", which for purposes of codification has been changed to "section 7602(b)(2) and (4) of this title".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7406. Interstate air quality agencies; program cost limitations

For the purpose of developing implementation plans for any interstate air quality control region designated pursuant to section 7407 of this title, the Administrator is authorized to pay, for two years, up to 100 per centum of the air quality planning program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors plans for implementation of national primary and secondary ambient air quality standards and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Administrator is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of any agency.

(July 14, 1955, ch. 360, title I, § 106, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 490, and amended Dec. 31, 1970, Pub. L. 91-604, § 3(c), 84 Stat. 1677.)

CODIFICATION

Section was formerly classified to section 1857c-1 of this title.

PRIOR PROVISIONS

A prior section 106 of act July 14, 1955, was renumbered section 117 by Pub. L. 91-604 and is set out as section 7417 of this title.

AMENDMENTS

1970—Pub. L. 91-604 struck out lettered designation "(a)", as so redesignated, substituted provisions authorizing Federal grants for the purpose of developing im-

plementation plans and provisions requiring the designated State agency to be capable of recommending plans for implementation of national primary and secondary ambient air quality standards, for provisions authorizing Federal grants for the purpose of expediting the establishment of air quality standards and provisions requiring the designated State agency to be capable of recommending standards of air quality and plans for implementation thereof, respectively, and struck out subsec. (b) which authorized the establishment of air quality planning commissions.

§ 7407. Air quality control regions

(a) Responsibility of each State for air quality; submission of implementation plan

Each State shall have the primary responsibility for assuring air quality within the entire geographic area comprising such State by submitting an implementation plan for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in such State.

(b) Designated regions

For purposes of developing and carrying out implementation plans under section 7410 of this title—

(1) an air quality control region designated under this section before December 31, 1970, or a region designated after such date under subsection (c) of this section, shall be an air quality control region; and

(2) the portion of such State which is not part of any such designated region shall be an air quality control region, but such portion may be subdivided by the State into two or more air quality control regions with the approval of the Administrator.

(c) Authority of Administrator to designate regions; notification of Governors of affected States

The Administrator shall, within 90 days after December 31, 1970, after consultation with appropriate State and local authorities, designate as an air quality control region any interstate area or major intrastate area which he deems necessary or appropriate for the attainment and maintenance of ambient air quality standards. The Administrator shall immediately notify the Governors of the affected States of any designation made under this subsection.

(d) List of noncomplying regions

(1) For the purpose of transportation control planning, part D (relating to nonattainment), part C (relating to prevention of significant deterioration of air quality), and for other purposes, each State, within one hundred and twenty days after August 7, 1977, shall submit to the Administrator a list, together with a summary of the available information, identifying those air quality control regions, or portions thereof, established pursuant to this section in such State which on August 7, 1977—

(A) do not meet a national primary ambient air quality standard for any air pollutant other than sulfur dioxide or particulate matter;

(B) do not meet, or in the judgment of the State may not in the time period required by an applicable implementation plan attain or maintain, any national primary ambient air quality standard for sulfur dioxide or particulate matter;

(C) do not meet a national secondary ambient air quality standard;

(D) cannot be classified under subparagraph (B) or (C) of this paragraph on the basis of available information, for ambient air quality levels for sulfur oxides or particulate matter; or

(E) have ambient air quality levels better than any national primary or secondary air quality standard other than for sulfur dioxide or particulate matter, or for which there is not sufficient data to be classified under subparagraph (A) or (C) of this paragraph.

(2) Not later than sixty days after submittal of the list under paragraph (1) of this subsection the Administrator shall promulgate each such list with such modifications as he deems necessary. Whenever the Administrator proposes to modify a list submitted by a State, he shall notify the State and request all available data relating to such region or portion, and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate.

(4)[1] Any region or portion thereof which is not classified under subparagraph (B) or (C) of paragraph (1) of this subsection for sulfur dioxide or particulate matter within one hundred and eighty days after August 7, 1977, shall be deemed to be a region classified under subparagraph (D) of paragraph (1) of this subsection.

(5) A State may from time to time review, and as appropriate revise and resubmit, the list required under this subsection. The Administrator shall consider and promulgate such revised list in accordance with this subsection.

(e) Redesignation of air quality control regions

(1) Except as otherwise provided in paragraph (2), the Governor of each State is authorized, with the approval of the Administrator, to redesignate from time to time the air quality control regions within such State for purposes of efficient and effective air quality management. Upon such redesignation, the list under subsection (d) of this section shall be modified accordingly.

(2) In the case of an air quality control region in a State, or part of such region, which the Administrator finds may significantly affect air pollution concentrations in another State, the Governor of the State in which such region, or part of a region, is located may redesignate from time to time the boundaries of so much of such air quality control region as is located within such State only with the approval of the Administrator and with the consent of all Governors of all States which the Administrator determines may be significantly affected.

(3) No compliance date extension granted under section 7413(d)(5) of this title (relating to coal conversion) shall cease to be effective by reason of the regional limitation provided in section 7413(d)(5) of this title if the violation of

[1] So in original. Subsec. (d) enacted without a par. (3).

such limitation is due solely to a redesignation of a region under this subsection.

(July 14, 1955, ch. 360, title I, § 107, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678, and amended Aug. 7, 1977, Pub. L. 95-95, title I, § 103, 91 Stat. 687.)

CODIFICATION

Section was formerly classified to section 1857c-2 of this title.

PRIOR PROVISIONS

A prior section 107 of act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 490, which was classified to section 1857c-2 of this title, related to air quality control regions and was repealed by Pub. L. 91-604. The section 107 of act July 14, 1955, which formed part of that Act as originally enacted, was renumbered section 111 by Pub. L. 90-148 and again renumbered section 118 by Pub. L. 91-604, and is set out as section 7418 of this title.

AMENDMENTS

1977—Subsecs. (d), (e). Pub. L. 95-95 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7406, 7471, 7472, 7477, 7501 of this title.

§ 7408. Air quality criteria and control techniques

(a) Air pollutant list; publication and revision by Administrator; issuance of air quality criteria for air pollutants

(1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after December 31, 1970, publish, and shall from time to time thereafter revise, a list which includes each air pollutant—

(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;

(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

(C) for which air quality criteria had not been issued before December 31, 1970 but for which he plans to issue air quality criteria under this section.

(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on—

(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

(C) any known or anticipated adverse effects on welfare.

(b) Issuance by Administrator of information on air pollution control techniques; standing consulting committees for air pollutants; establishment; membership

(1) Simultaneously with the issuance of criteria under subsection (a) of this section, the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include data relating to the cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact of the emission control technology. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting committee for each air pollutant included in a list published pursuant to subsection (a)(1) of this section, which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the academic community. Each such committee shall submit, as appropriate, to the Administrator information related to that required by paragraph (1).

(c) Review, modification, and reissuance of criteria or information

The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section. Not later than six months after August 7, 1977, the Administrator shall revise and reissue criteria relating to concentrations of NO_2 over such period (not more than three hours) as he deems appropriate. Such criteria shall include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.

(d) Publication in Federal Register; availability of copies for general public

The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public.

(e) Transportation planning and guidelines

The Administrator shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development and State and local officials and within 180 days after August 7, 1977, and from time to time thereafter, publish guidelines on the basic program elements for the planning process assisted under section 7505 of this title. Such guidelines shall include information on—

(1) methods to identify and evaluate alternative planning and control activities;

(2) methods of reviewing plans on a regular basis as conditions change or new information is presented;

(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

(4) methods to assure participation by the public in all phases of the planning process; and

(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.

(f) Information regarding processes, procedures, and methods to reduce or control pollutants in transportation; reduction of mobile source related pollutants; reduction of impact on public health

(1) The Administrator shall publish and make available to appropriate Federal agencies, States, and air pollution control agencies, including agencies assisted under section 7505 of this title within 6 months after August 7, 1977, for clauses (i), (ii), (iii), and (iv) of subparagraph (A) and within one year after August 7, 1977, for the balance of this subsection (and from time to time thereafter),

(A) information, prepared, as appropriate, in cooperation with the Secretary of Transportation, regarding processes, procedures, and methods to reduce or control each such pollutant, including but not limited to—

(i) motor vehicle emission inspection and maintenance programs;

(ii) programs to control vapor emissions from fuel transfer and storage operations and operations using solvents;

(iii) programs for improved public transit;

(iv) programs to establish exclusive bus and carpool lanes and areawide carpool programs;

(v) programs to limit portions of road surfaces or certain sections of the metropolitan areas to the use of common carriers, both as to time and place;

(vi) programs for long-range transit improvements involving new transportation policies and transportation facilities or major changes in existing facilities;

(vii) programs to control on-street parking;

(viii) programs to construct new parking facilities and operate existing parking facilities for the purpose of park and ride lots and fringe parking;

(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of nonmotorized vehicles or pedestrian use, both as to time and place;

(x) provisions for employer participation in programs to encourage carpooling, vanpooling, mass transit, bicycling, and walking;

(xi) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

(xii) programs of staggered hours of work;

(xiii) programs to institute road user charges, tolls, or differential rates to discourage single occupancy automobile trips;

(xiv) programs to control extended idling of vehicles;

(xv) programs to reduce emissions by improvements in traffic flow;

(xvi) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations;

(xvii) programs for retrofit of emission devices or controls on vehicles and engines, other than light duty vehicles, not subject to regulations under section 7521 of this title; and

(xviii) programs to reduce motor vehicle emissions which are caused by extreme cold start conditions;

(B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any primary ambient air quality standard will be exceeded and during episodes for which an air pollution alert, warning, or emergency has been declared;

(C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups; and

(D) information on the extent to which any process, procedure, or method to reduce or control such air pollutant may cause an in-

crease in the emissions or formation of any other pollutant.

(2) In publishing such information the Administrator shall also include an assessment of—

(A) the relative effectiveness of such processes, procedures, and methods;

(B) the potential effect of such processes, procedures, and methods on transportation systems and the provision of transportation services; and

(C) the environmental, energy, and economic impact of such processes, procedures, and methods.

(July 14, 1955, ch. 360, title I, § 108, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678, and amended Aug. 7, 1977, Pub. L. 95-95, title I, §§ 104, 105, title IV, § 401(a), 91 Stat. 689, 790.)

CODIFICATION

Section was formerly classified to section 1857c-3 of this title.

PRIOR PROVISIONS

A prior section 108 of act July 14, 1955, was renumbered section 115 by Pub. L. 91-604, and is set out as section 7415 of this title.

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-95, § 401(a), substituted "emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare" for "which in his judgment has an adverse effect on public health or welfare".

Subsec. (b)(1). Pub. L. 95-95, § 104(a), substituted "cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact of the emission control technology" for "technology and costs of emission control".

Subsec. (c). Pub. L. 95-95, § 104(b), added provision directing the Administrator, not later than six months after Aug. 7, 1977, to revise and reissue criteria relating to concentrations of NO_2 over such period (not more than three hours) as he deems appropriate, with the criteria to include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.

Subsecs. (e), (f). Pub. L. 95-95, § 105, added subsecs. (e) and (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7409, 7411, 7417, 7422, 7508 of this title.

§ 7409. National primary and secondary ambient air quality standards

(a) Promulgation

(1) The Administrator—

(A) within 30 days after December 31, 1970, shall publish proposed regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria have been issued prior to such date; and

(B) after a reasonable time for interested persons to submit written comments thereon (but no later than 90 days after the initial publication of such proposed standards) shall by regulation promulgate such proposed national primary and secondary ambient air quality standards with such modifications as he deems appropriate.

(2) With respect to any air pollutant for which air quality criteria are issued after December 31, 1970, the Administrator shall publish, simultaneously with the issuance of such criteria and information, proposed national primary and secondary ambient air quality standards for any such pollutant. The procedure provided for in paragraph (1)(B) of this subsection shall apply to the promulgation of such standards.

(b) Protection of public health and welfare

(1) National primary ambient air quality standards, prescribed under subsection (a) of this section shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

(2) Any national secondary ambient air quality standard prescribed under subsection (a) of this section shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

(c) National primary ambient air quality standard for nitrogen dioxide

The Administrator shall, not later than one year after August 7, 1977, promulgate a national primary ambient air quality standard for NO_2 concentrations over a period of not more than 3 hours unless, based on the criteria issued under section 7408(c) of this title, he finds that there is no significant evidence that such a standard for such a period is requisite to protect public health.

(d) Review and revision of criteria and standards; independent scientific review committee; appointment; advisory functions

(1) Not later than December 31, 1980, and at five-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 7408 of this title and the national ambient air quality standards promulgated under this section and shall make such revisions in such criteria and standards and promulgate such new standards as may be appropriate in accordance with section 7408 of this title and subsection (b) of this section. The Administrator may review and revise criteria or promulgate new standards earlier or more frequently than required under this paragraph.

(2)(A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

(B) Not later than January 1, 1980, and at five-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 7408 of this title and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing criteria and standards as may be appropriate under section 7408 of this title and subsection (b) of this section.

(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.

(July 14, 1955, ch. 360, title I, § 109, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1679, and amended Aug. 7, 1977, Pub. L. 95-95, title I, § 106, 91 Stat. 691.)

CODIFICATION

Section was formerly classified to section 1857c-4 of this title.

PRIOR PROVISIONS

A prior section 109 of act July 14, 1955, was renumbered section 116 by Pub. L. 91-604, and is set out as section 7416 of this title.

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-95, § 106(b), added subsec. (c).

Subsec. (d). Pub. L. 95-95, § 106(a), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7415, 7607, 7618 of this title.

§ 7410. State implementation plans for national primary and secondary ambient air quality standards

(a) Adoption of plan by State; submission to Administrator; content of plan; revision; new sources; indirect source review program; supplemental or intermittent control systems

(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within nine months after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 7409 of this title for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within nine months after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.

(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan, or any portion thereof. The Administrator shall approve such plan, or any

portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

(A) except as may be provided in subparagraph (D)(i) in the case of a plan implementing a national primary ambient air quality standard, it provides for the attainment of such primary standard as expeditiously as practicable but (subject to subsection (e) of this section) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised primary standard); and (ii) in the case of a plan implementing a national secondary ambient air quality standard, it specifies a reasonable time at which such secondary standard will be attained;

(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, transportation controls, air quality maintenance plans, and preconstruction review of direct sources of air pollution as provided in subparagraph (D);

(C) it includes provision for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator;

(D) it includes a program to provide for the enforcement of emission limitations and regulation of the modification, construction, and operation of any stationary source, including a permit program as required in parts C and D and a permit or equivalent program for any major emitting facility, within such region as necessary to assure (i) that national ambient air quality standards are achieved and maintained, and (ii) a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply;

(E) it contains adequate provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will (I) prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, and (ii) insuring compliance with the requirements of section 7426 of this title, relating to interstate pollution abatement;

(F) it provides (i) necessary assurances that the State will have adequate personnel, funding, and authority to carry out such implementation plan, (ii) requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources, (iii) for periodic reports on the nature and amounts of such emissions; (iv) that such reports shall be correlated by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection; (v) for authority comparable to that in section 7603 of this title, and adequate contingency plans to implement such authority; and (vi) requirements that the State comply with the requirements respecting State boards under section 7428 of this title;

(G) it provides, to the extent necessary and practicable, for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards;

(H) it provides for revision, after public hearings, of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of achieving such primary or secondary standards; or (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary or secondary standard which it implements or to otherwise comply with any additional requirements established under the Clean Air Act Amendments of 1977;

(I) it provides that after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area (as defined in section 7501(2) of this title) to which such plan applies, if the emissions form such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction or modification, such plan meets the requirements of part D (relating to nonattainment areas);

(J) it meets the requirements of section 7421 of this title (relating to consultation), section 7427 of this title (relating to public notification), part C (relating to prevention of significant deterioration of air quality and visibility protection); and

(K) it requires the owner or operator of each major stationary source to pay to the permitting authority as a condition of any permit required under this chapter a fee sufficient to cover—

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner or operator receives a permit for such source, whether before or after August 7, 1977, the reasonable costs (incurred after such date) of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action).

(3)(A) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2)

and has been adopted by the State after reasonable notice and public hearings.

(B) As soon as practicable, the Administrator shall, consistent with the purposes of this chapter and the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.], review each State's applicable implementation plans and report to the State on whether such plans can be revised in relation to fuel burning stationary sources (or persons supplying fuel to such sources) without interfering with the attainment and maintenance of any national ambient air quality standard within the period permitted in this section. If the Administrator determines that any such plan can be revised, he shall notify the State that a plan revision may be submitted by the State. Any plan revision which is submitted by the State shall, after public notice and opportunity for public hearing, be approved by the Administrator if the revision relates only to fuel burning stationary sources (or persons supplying fuel to such sources), and the plan as revised complies with paragraph (2) of this subsection. The Administrator shall approve or disapprove any revision no later than three months after its submission.

(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection, nor the Administrator in the case of a plan (or portion thereof) promulgated under subsection (c) of this section, shall be required to revise an applicable implementation plan because one or more exemptions under section 7418 of this title (relating to Federal facilities), enforcement orders under section 7413(d) of this title, suspensions under subsections (f) or (g) of this section (relating to temporary energy or economic authority) or orders under section 7419 of this title (relating to primary nonferrous smelters) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, extension, or variances had been granted.

(D) Any applicable implementation plan for which an attainment date later than December 31, 1982, is provided pursuant to section 7502(a)(2) of this title shall be revised by July 1, 1979, to include the comprehensive measures and requirements referred to in subsection (c)(5)(B) of this section.

(4) The procedure referred to in paragraph (2)(D) for review, prior to construction or modification, of the location of new sources shall (A) provide for adequate authority to prevent the construction or modification of any new source to which a standard of performance under section 7411 of this title will apply at any location which the State determines will prevent the attainment or maintenance within any air quality control region (or portion thereof) within such State of a national ambient air quality primary or secondary standard, and (B) require that prior to commencing construction or modification of any such source, the owner or operator thereof shall submit to such State such information as may be necessary to permit the State to make a determination under clause (A).

(5)(A)(i) Any State may include in a State implementation plan, but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program. The Administrator may approve and enforce, as part of an applicable implementation plan, an indirect source review program which the State chooses to adopt and submit as part of its plan.

(ii) Except as provided in subparagraph (B), no plan promulgated by the Administrator shall include any indirect source review program for any air quality control region, or portion thereof.

(iii) Any State may revise an applicable implementation plan approved under this subsection to suspend or revoke any such program included in such plan, provided that such plan meets the requirements of this section.

(B) The Administrator shall have the authority to promulgate, implement and enforce regulations under subsection (c) of this section respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources.

(C) For purposes of this paragraph, the term "indirect source means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of subsection (c)(2)(D)(ii) of this section), including regulation of existing off-street parking but such term does not include new or existing on-street parking. Direct emissions sources or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this paragraph.

(D) For purposes of this paragraph the term "indirect source review program" means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

(i) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

(ii) preventing maintenance of any such standard after such date.

(E) For purposes of this paragraph and paragraph (2)(B), the term "transportation control measure" does not include any measure which is an "indirect source review program".

(6) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of an order under section 7413(d) of this title or section 7419 of this title (relating to primary nonferrous smelter orders), the owner or operator of such source may not temporarily reduce the pay of any employee by reason of

the use of such supplemental or intermittent or other dispersion dependent control system.

(b) Extension of period for submission of plans

The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

(c) Preparation and publication by Administrator of proposed regulations setting forth implementation plan; transportation regulations study and report; parking surcharge; suspension authority; plan implementation

(1) The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

(A) the State fails to submit an implementation plan which meets the requirements of this section,

(B) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

(C) the State fails, within 60 days after notification by the Administrator or such longer period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H) of this section.

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section. Notwithstanding the preceding sentence, any portion of a plan relating to any measure described in the first sentence of section 7421 of this title (relating to consultation) or the consultation process required under such section 7421 of this title shall not be required to be promulgated before the date eight months after such date required for submission.

(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Environment and Public Works of the United States Senate not later than three months after June 22, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Federal Energy Administrator, and the Chairman of the Council on Environmental Quality.

(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon June 22, 1974. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

(D) For purposes of this paragraph—

(i) The term "parking surcharge regulation" means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles.

(ii) The term "management of parking supply" shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(iii) The term "preferential bus/carpool lane" shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses or carpools, or both.

(E) No standard, plan, or requirement, relating to management of parking supply or preferential bus/carpool lanes shall be promulgated after June 22, 1974, by the Administrator pursuant to this section, unless such promulgation has been subjected to at least one public hearing which has been held in the area affected and for which reasonable notice has been given in such area. If substantial changes are made

following public hearings, one or more additional hearings shall be held in such area after such notice.

(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the authority to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from implementing or enforcing any applicable provision of a plan promulgated under this subsection.

(4) In the case of any applicable implementation plan containing measures requiring—

(A) retrofits on other than commercially owned in-use vehicles,

(B) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects, or

(C) the reduction of the supply of on-street parking spaces,

the Governor of the State may, after notice and opportunity for public hearing, temporarily suspend such measures notwithstanding the requirements of this section until January 1, 1979, or the date on which a plan revision under subsection (a)(2)(I) of this section is submitted, whichever is earlier. No such suspension shall be granted unless the State agrees to prepare, adopt, and submit such plan revision as determined by the Administrator.

(5)(A) Any measure in an applicable implementation plan which requires a toll or other charge for the use of a bridge located entirely within one city shall be eliminated from such plan by the Administrator upon application by the Governor of the State, which application shall include a certification by the Governor that he will revise such plan in accordance with subparagraph (B).

(B) In the case of any applicable implementation plan with respect to which a measure has been eliminated under subparagraph (A), such plan shall, not later than one year after August 7, 1977, be revised to include comprehensive measures (including the written evidence required by part D), to:

(i) establish, expand, or improve public transportation measures to meet basic transportation needs, as expeditiously as is practicable; and

(ii) implement transportation control measures necessary to attain and maintain national ambient air quality standards,

and such revised plan shall, for the purpose of implementing such comprehensive public transportation measures, include requirements to use (insofar as is necessary) Federal grants, State or local funds, or any combination of such grants and funds as may be consistent with the terms of the legislation providing such grants and funds. Such measures shall, as a substitute for the tolls or charges eliminated under subparagraph (A), provide for emissions reductions equivalent to the reductions which may reasonably be expected to be achieved through the use of the tolls or charges eliminated.

(C) Any revision of an implementation plan for purposes of meeting the requirements of subparagraph (B) shall be submitted in coordination with any plan revision required under part D.

(d) Applicable implementation plan

For purposes of this chapter, an applicable implementation plan is the implementation plan, or most recent revision thereof, which has been approved under subsection (a) of this section or promulgated under subsection (c) of this section and which implements the requirements of this section.

(e) Extension of time period for attainment of national primary ambient air quality standard in implementation plan; procedure; approval of extension by Administrator

(1) Upon application of a Governor of a State at the time of submission of any plan implementing a national ambient air quality primary standard, the Administrator may (subject to paragraph (2)) extend the three-year period referred to in subsection (a)(2)(A)(i) of this section for not more than two years for an air quality control region if after review of such plan the Administrator determines that—

(A) one or more emission sources (or classes of moving sources) are unable to comply with the requirements of such plan which implement such primary standard because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance within such three-year period, and

(B) The State has considered and applied as a part of its plan reasonably available alternative means of attaining such primary standard and has justifiably concluded that attainment of such primary standard within the three years cannot be achieved.

(2) The Administrator may grant an extension under paragraph (1) only if he determines that the State plan provides for—

(A) application of the requirements of the plan which implement such primary standard to all emission sources in such region other than the sources (or classes) described in paragraph (1)(A) within the three-year period, and

(B) such interim measures of control of the sources (or classes) described in paragraph (1)(A) as the Administrator determines to be reasonable under the circumstances.

(f) National or regional energy emergencies; determination by President

(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and opportunity for public hearing, the Governor of the State in which such source is located may petition the President to determine that a national or regional energy emergency exists of such severity that—

(A) a temporary suspension of any part of the applicable implementation plan may be necessary, and

(B) other means of responding to the energy emergency may be inadequate.

Such determination shall not be delegable by the President to any other person. If the President determines that a national or regional energy emergency of such severity exists, a temporary emergency suspension of any part of an applicable implementation plan adopted by the State may be issued by the Governor of any State covered by the President's determination under the condition specified in paragraph (2) and may take effect immediately.

(2) A temporary emergency suspension under this subsection shall be issued to a source only if the Governor of such State finds that—

(A) there exists in the vicinity of such source a temporary energy emergency involving high levels of unemployment or loss of necessary energy supplies for residential dwellings; and

(B) such unemployment or loss can be totally or partially alleviated by such emergency suspension.

Not more than one such suspension may be issued for any source on the basis of the same set of circumstances or on the basis of the same emergency.

(3) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator, if any. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of paragraph (2).

(4) This subsection shall not apply in the case of a plan provision or requirement promulgated by the Administrator under subsection (c) of this section, but in any such case the President may grant a temporary emergency suspension for a four month period of any such provision or requirement if he makes the determinations and findings specified in paragraphs (1) and (2).

(5) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or increment of progress) to which such source is subject under section 1857c-10 of this title, as in effect before August 7, 1977, or section 7413(d) of this title, upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection.

(g) Governor's authority to issue temporary emergency suspensions

(1) In the case of any State which has adopted and submitted to the Administrator a proposed plan revision which the State determines—

(A) meets the requirements of this section, and

(B) is necessary (i) to prevent the closing for one year or more of any source of air pollution, and (ii) to prevent substantial increases in unemployment which would result from such closing, and

which the Administrator has not approved or disapproved under this section within the required four month period, the Governor may issue a temporary emergency suspension of the part of the applicable implementation plan for such State which is proposed to be revised with respect to such source. The determination under subparagraph (B) may not be made with respect to a source which would close without regard to whether or not the proposed plan revision is approved.

(2) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of this subsection.

(3) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or increment of progress) to which such source is subject under section 1857c-10 of this title as in effect before August 7, 1977, or under section 7413(d) of this title upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection.

(h) Annual publication of comprehensive document for each State setting forth requirements of applicable implementation plan

(1) Not later than one year after August 7, 1977, and annually thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the Federal Register of the availability of such documents. Each such document shall be revised as frequently as practicable but not less often than annually.

(2) The Administrator may promulgate such regulations as may be reasonably necessary to carry out the purpose of this subsection.

(i) Modification of requirements prohibited

Except for a primary nonferrous smelter order under section 7419 of this title, a suspension under subsection (f) or (g) of this section (relating to emergency suspensions), an exemption under section 7418 of this title (relating to certain Federal facilities), an order under section 7413(d) of this title (relating to compliance orders), a plan promulgation under subsection (c) of this section, or a plan revision under subsection (a)(3) of this section; no order, suspension, plan revision, or other action modifying any requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator.

(j) Technological systems of continuous emission reduction on new or modified stationary sources; compliance with performance standards

As a condition for issuance of any permit required under this subchapter, the owner or op-

erator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is to be used at such source will enable it to comply with the standards of performance which are to apply to such source and that the construction or modification and operation of such source will be in compliance with all other requirements of this chapter.

(July 14, 1955, ch. 360, title I, § 110, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1680, and amended June 22, 1974, Pub. L. 93-319, § 4, 88 Stat. 256; S. Res. 4, Feb. 4, 1977; Aug. 7, 1977, Pub. L. 95-95, title I, §§ 107, 108, 91 Stat. 691, 693; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(1)-(6), 91 Stat. 1399.)

References in Text

The Clean Air Act Amendments of 1977, referred to in subsec. (a)(2)(H)(ii), is Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685, which amended this chapter generally. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 7401 of this title and Tables.

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (a)(3)(B), is Pub. L. 93-319, June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

"Section 1857c-10 of this title, as in effect before August 7, 1977", referred to in subsecs. (f)(5) and (g)(3) was, in the original, "section 119, as in effect before the date of the enactment of this paragraph", meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, (which was classified to section 1857c-10 of this title) as in effect prior to the enactment of subsecs. (f)(5) and (g)(3) of this section by Pub. L. 95-95, § 107, Aug. 7, 1977, 91 Stat. 691, effective Aug. 7, 1977. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to section 7413(d)(5) of this title. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

Codification

Section was formerly classified to section 1857c-5 of this title.

Prior Provisions

A prior section 110 of act July 14, 1955, was renumbered section 117 by Pub. L. 91-604, and is set out as section 7417 of this title.

Amendments

1977—Subsec. (a)(2)(A). Pub. L. 95-95, § 108(a)(1), substituted "(A) except as may be provided in subparagraph (I)(i) in the case of a plan" for "(A)(i) in the case of a plan".

Subsec. (a)(2)(B). Pub. L. 95-95, § 108(a)(2), substituted "transportation controls, air quality maintenance plans, and preconstruction review of direct sources of air pollution as provided in subparagraph (D)" for "land use and transportation controls".

Subsec. (a)(2)(D). Pub. L. 95-95, § 108(a)(3), substituted "it includes a program to provide for the enforcement of emission limitations and regulation of the modification, construction, and operation of any stationary source, including a permit program as required in parts C and D and a permit or equivalent program for any major emitting facility, within such region as necessary to assure (i) that national ambient air quality standards are achieved and maintained, and (ii) a procedure" for "it includes a procedure".

Subsec. (a)(2)(E). Pub. L. 95-95, § 108(a)(4), substituted "it contains adequate provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will (I) prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State udner part C to prevent significant deterioration of air quality or to protect visibility, and (ii) insuring compliance with the requirements of section 7426 of this title, relating to interstate pollution abatement" for "it contains adequate provisions for intergovernmental cooperation, including measures necessary to insure that emissions of air pollutants from sources located in any air quality control region will not interfere with the attainment or maintenance of such primary or secondary standard in any portion of such region outside of such State or in any other air quality control region".

Subsec. (a)(2)(F). Pub. L. 95-95, § 108(a)(5), added cl. (vi).

Subsec. (a)(2)(H). Pub. L. 95-190, § 14(a)(1), substituted "1977;" for "1977", which for purposes of codification had already been substituted thereby requiring no further change in text.

Pub. L. 95-95, § 108(a)(6), added "except as provided in paragraph (3)(C)," after "or (ii)" and "or to otherwise comply with any additional requirements established under the Clean Air Act Amendments of 1977" after "to achieve the national ambient air quality primary or secondary standard which it implements".

Subsec. (a)(2)(I). Pub. L. 95-95, § 108(b), added subsec. (a)(2)(I).

Subsec. (a)(2)(J). Pub. L. 95-190, § 14(a)(2), substituted "; and" for ", and", which for purposes of codification had already been substituted thereby requiring no further change in text.

Pub. L. 95-95, § 108(b) added subsec. (a)(2)(J).

Subsec. (a)(2)(K). Pub. L. 95-95, § 108(b), added subsec. (a)(2)(K).

Subsec. (a)(3)(C). Pub. L. 95-95, § 108(c), added subsec. (a)(3)(C).

Subsec. (a)(3)(D). Pub. L. 95-190, § 14(a)(4), added subsec. (a)(3)(D).

Subsec. (a)(5). Pub. L. 95-95, § 108(3), added subsec. (a)(5).

Subsec. (a)(5)(D). Pub. L. 95-190, § 14(a)(3), struck out "preconstruction or premodification" preceding "review".

Subsec. (a)(6). Pub. L. 95-95, § 108(3), added subsec. (a)(6).

Subsec. (c)(1). Pub. L. 95-95, § 108(d)(1), (2), substituted "plan which meets the requirements of this section" for "plan for any national ambient air quality primary or secondary standard within the time prescribed" in subpar. (A) and, in the provisions following subpar. (C), directed that any portion of a plan relating to any measure described in the first sentence of 7421 of this title (relating to consultation) or the consultation process required under such section 7421 of this title not be required to be promulgated before the date eight months after such date required for submission.

Subsec. (c)(3) to (5). Pub. L. 95-95, § 108(d)(3), added subsec. (c)(3) to (5).

Subsec. (d). Pub. L. 95-95, § 108(f), substituted "and which implements the requirements of this section" for "and which implements a national primary or secondary ambient air quality standard in a State".

Subsec. (f). Pub. L. 95-95, § 107(a), substituted provisions relating to the handling of national or regional energy emergencies for provisions relating to the postponement of compliance by stationary sources or classes of moving sources with any requirement of applicable implementation plans.

Subsec. (g). Pub. L. 95-95, § 107(b), added subsec. (g).

Subsec. (h). Pub. L. 95-190, § 14(a)(5), redesignated subsec. (g), added by Pub. L. 95-95, § 108(g), as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95-190, § 14(a)(5), redesignated subsec. (h), added by Pub. L. 95-95, § 108(g), as (i). Former subsec. (i) redesignated (j) and amended.

Subsec. (j). Pub. L. 95-190 § 14(a)(5), (6), redesignated subsec. (i), added by Pub. L. 95-95, § 108(g), as (j) and in subsec. (j) as so redesignated, substituted "will enable such source" for "at such source will enable it".

1974—Subsec. (a)(3). Pub. L. 93-319, § 4(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c). Pub. L. 93-319, § 4(b), designated existing provisions as par. (1) and existing pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of such redesignated par. (1), and added par. (2).

Change of Name

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Savings Provisions

Section 16 of Pub. L. 91-604 provided that: "(a)(1) Any implementation plan adopted by any State and submitted to the Secretary of Health, Education, and Welfare, or to the Administrator pursuant to the Clean Air Act [this chapter] prior to enactment of this Act [Dec. 31, 1970] may be approved under section 110 of the Clean Air Act [this section] (as amended by this Act) [Pub. L. 91-604] and shall remain in effect, unless the Administrator determines that such implementation plan, or any portion thereof, is not consistent with applicable requirements of the Clean Air Act [this chapter] (as amended by this Act) and will not provide for the attainment of national primary ambient air quality standards in the time required by such Act. If the Administrator so determines, he shall, within 90 days after promulgation of any national ambient air quality standards pursuant to section 109(a) of the Clean Air Act [section 7409(a) of this title], notify the State and specify in what respects changes are needed to meet the additional requirements of such Act, including requirements to implement national secondary ambient air quality standards. If such changes are not adopted by the State after public hearings and within six months after such notification, the Administrator shall promulgate such changes pursuant to section 110(c) of such Act [subsec. (c) of this section].

"(2) The amendments made by section 4(b) [amending sections 7403 and 7415 of this title] shall not be construed as repealing or modifying the powers of the Administrator with respect to any conference convened under section 108(d) of the Clean Air Act [section 7415 of this title] before the date of enactment of this Act [Dec. 31, 1970].

"(b) Regulations or standards issued under this title II of the Clean Air Act [subchapter II of this chapter] prior to the enactment of this Act [Dec. 31, 1970] shall continue in effect until revised by the Administrator consistent with the purposes of such Act [this chapter]."

Federal Energy Administrator

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275, May 7, 1974, 88 Stat. 97, set out as section 761 et seq. of Title 15, Commerce and Trade, but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administrator takes office and after the Federal Energy Administration ceases to exist, see section 798 of Title 15, Commerce and Trade.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

Pending Actions and Proceedings

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Modification or Rescission of Rules, Regulations, Orders, Determinations, Contracts, Certifications, Authorizations, Delegations, and Other Actions

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Modification or Rescission of Implementation Plans Approved and In Effect Prior to Aug. 7, 1977

Nothing in the Clean Air Act Amendments of 1977 [Pub. L. 95-95] to affect any requirement of an approved implementation plan under this section or any other provision in effect under this chapter before Aug. 7, 1977, until modified or rescinded in accordance with this chapter as amended by the Clean Air Act Amendments of 1977, see section 406(c) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Section Referred to in Other Sections

This section is referred to in sections 6211, 7405, 7407, 7411, 7413, 7414, 7415, 7419, 7420, 7425, 7426, 7475, 7476, 7491, 7501, 7502, 7504, 7506, 7545, 7607, 7613, 7619 of this title.

§ 7411. Standards of performance for new stationary sources

(a) Definitions

For purposes of this section:

(1) The term "standard of performance" means—

(A) with respect to any air pollutant emitted from a category of fossil fuel fired sta-

tionary sources to which subsection (b) of this section applies, a standard—

(i) establishing allowable emission limitations for such category of sources, and

(ii) requiring the achievement of a percentage reduction in the emissions from such category of sources from the emissions which would have resulted from the use of fuels which are not subject to treatment prior to combustion,

(B) with respect to any air pollutant emitted from a category of stationary sources (other than fossil fuel fired sources) to which subsection (b) of this section applies, a standard such as that referred to in subparagraph (A)(i); and

(C) with respect to any air pollutant emitted from a particular source to which subsection (d) of this section applies, a standard which the State (or the Administrator under the conditions specified in subsection (d)(2) of this section) determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

For the purpose of subparagraphs (A)(i) and (ii) and (B), a standard of performance shall reflect the degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. For the purpose of subparagraph (1)(A)(ii), any cleaning of the fuel or reduction in the pollution characteristics of the fuel after extraction and prior to combustion may be credited, as determined under regulations promulgated by the Administrator, to a source which burns such fuel.

(2) The term "new source" means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

(3) The term "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

(4) The term "modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

(5) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(6) The term "existing source" means any stationary source other than a new source.

(7) The term "technological system of continuous emission reduction" means—

(A) a technological process for production or operation by any source which is inherently low-polluting or nonpolluting, or

(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air, including precombustion cleaning or treatment of fuels.

(8) A conversion to coal (A) by reason of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 792(a)] or any amendment thereto, or any subsequent enactment which supersedes such Act [15 U.S.C. 791 et seq.], or (B) which qualifies under section 7413(d)(5)(A)(ii) of this title, shall not be deemed to be a modification for purposes of paragraphs (2) and (4) of this subsection.

(b) List of categories of stationary sources; standards of performance; information on pollution control techniques; sources owned or operated by United States; particular systems; revised standards

(1)(A) The Administrator shall, within 90 days after December 31, 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.

(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall publish proposed regulations, establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publications, such standards with such modifications as he deems appropriate. The Administrator shall, at least every four years, review and, if appropriate, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance or revisions thereof shall become effective upon promulgation.

(2) The Administrator may distinguish among classes, types and sizes within categories of new sources for the purpose of establishing such standards.

(3) The Administrator shall, from time to time, issue information on pollution control techniques for categories of new sources and air pollutants subject to the provisions of this section.

(4) The provisions of this section shall apply to any new source owned or operated by the United States.

(5) Except as otherwise authorized under subsection (h) of this section, nothing in this section shall be construed to require, or to authorize the Administrator to require, any new or modified source to install and operate any par-

ticular technological system of continuous emission reduction to comply with any new source standard of performance.

(6) The revised standards of performance required by enactment of subsection (a)(1)(A) (i) and (ii) of this section shall be promulgated not later than one year after August 7, 1977. Any new or modified fossil fuel fired stationary source which commences construction prior to the date of publication of the proposed revised standards shall not be required to comply with such revised standards.

(c) State implementation and enforcement of standards of performance

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards.

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard of performance under this section.

(d) Standards of performance for existing sources; remaining useful life of source

(1) The Administrator shall prescribe regulations which shall establish a procedure similar to that provided by section 7410 of this title under which each State shall submit to the Administrator a plan which (A) establishes standards of performance for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 7408(a) or 7412(b)(1)(A) of this title but (ii) to which a standard of performance under subsection (b) of this section would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such standards of performance. Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.

(2) The Administrator shall have the same authority—

(A) to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan as he would have under section 7410(c) of this title in the case of failure to submit an implementation plan, and

(B) to enforce the provisions of such plan in cases where the State fails to enforce them as he would have under sections 7413 and 7414 of this title with respect to an implementation plan.

In promulgating a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among other factors, remaining useful lives of the sources in the category of sources to which such standard applies.

(e) Prohibited acts

After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

(f) New source standards of performance

(1) Not later than one year after August 7, 1977, the Administrator shall promulgate regulations listing under subsection (b)(1)(A) of this section the categories of major stationary sources which are not on August 7, 1977, included on the list required under subsection (b)(1)(A) of this section. The Administrator shall promulgate regulations establishing standards of performance for the percentage of such categories of sources set forth in the following table before the expiration of the corresponding period set forth in such table:

Percentage of source categories required to be listed for which standards must be established:	Period by which standards must be promulgated after date list is required to be promulgated:
25	2 years.
75	3 years.
100	4 years.

(2) In determining priorities for promulgating standards for categories of major stationary sources for the purpose of paragraph (1), the Administrator shall consider—

(A) the quantity of air pollutant emissions which each such category will emit, or will be designed to emit;

(B) the extent to which each such pollutant may reasonably be anticipated to endanger public health or welfare; and

(C) the mobility and competitive nature of each such category of sources and the consequent need for nationally applicable new source standards of performance.

(3) Before promulgating any regulations under this subsection or listing any category of major stationary sources as required under this subsection, the Administrator shall consult with appropriate representatives of the Governors and of State air pollution control agencies.

(g) Revision of regulations

(1) Upon application by the Governor of a State showing that the Administrator has failed to specify in regulations under subsection (f)(1) of this section any category of major stationary sources required to be specified under such regulations, the Administrator shall revise such regulations to specify any such category.

(2) Upon application of the Governor of a State, showing that any category of stationary sources which is not included in the list under subsection (b)(1)(A) of this section contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (notwithstanding that such category is not a category of major stationary sources), the Administrator shall revise such regulations to specify such category of stationary sources.

(3) Upon application of the Governor of a State showing that the Administrator has failed to apply properly the criteria required to be considered under subsection (f)(2) of this section, the Administrator shall revise the list under subsection (b)(1)(A) of this section to apply properly such criteria.

(4) Upon application of the Governor of a State showing that—

(A) a new, innovative, or improved technology or process which achieves greater continuous emission reduction has been adequately demonstrated for any category of stationary sources, and

(B) as a result of such technology or process, the new source standard of performance in effect under subsection (b) of this section for such category no longer reflects the greatest degree of emission limitation achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) has been adequately demonstrated,

the Administrator shall revise such standard of performance for such category accordingly.

(5) Upon application by the Governor of a State showing that the Administrator has failed to list any air pollutant which causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness as a hazardous air pollutant under section 7412 of this title the Administrator shall revise the list of hazardous air pollutants under such section to include such pollutant.

(6) Upon application by the Governor of a State showing that any category of stationary sources of a hazardous air pollutant listed under section 7412 of this title is not subject to emission standards under such section, the Administrator shall propose and promulgate such emission standards applicable to such category of sources.

(7) Unless later deadlines for action of the Administrator are otherwise prescribed under this section or section 7412 of this title, the Administrator shall, not later than three months following the date of receipt of any application by a Governor of a State, either—

(A) find that such application does not contain the requisite showing and deny such application, or

(B) grant such application and take the action required udner this subsection.

(8) Before taking any action required by subsection (f) of this section or by this subsection, the Administrator shall provide notice and opportunity for public hearing.

(h) Design, equipment, work practice, or operational standard; alternative emission limitation

(1) For purposes of this section, if in the judgment of the Administrator, it is not feasible to prescribe or enforce a standard of performance, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof, which reflects the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. In the event the Administrator promulgates a design or equipment standard under this subsection, he shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

(2) For the purpose of this subsection, the phrase "not feasible to prescribe or enforce a standard of performance" means any situation in which the Administrator determines that (A) a pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

(3) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

(4) Any standard promulgated under paragraph (1) shall be promulgated in terms of standard of performance whenever it becomes feasible to promulgate and enforce such standard in such terms.

(i) Country elevators

Any regulations promulgated by the Administrator under this section applicable to grain elevators shall not apply to country elevators (as defined by the Administrator) which have a storage capacity of less than two million five hundred thousand bushels.

(j) Innovative technological systems of continuous emission reduction

(1)(A) Any person proposing to own or operate a new source may request the Administrator for one or more waivers from the requirements of this section for such source or any portion thereof with respect to any air pollutant to encourage the use of an innovative technological system or systems of continuous emission reduction. The Administrator may, with the consent of the Governor of the State in which the source is to be located, grant a waiver under this paragraph, if the Administrator determines after notice and opportunity for public hearing, that—

(i) the proposed system or systems have not been adequately demonstrated,

(ii) the proposed system or systems will operate effectively and there is a substantial likelihood that such system or systems will

achieve greater continuous emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at lower cost in terms of energy, economic, or nonair quality environmental impact,

(iii) the owner or operator of the proposed source has demonstrated to the satisfaction of the Administrator that the proposed system will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction, and

(iv) the granting of such waiver is consistent with the requirements of subparagraph (C).

In making any determination under clause (ii), the Administrator shall take into account any previous failure of such system or systems to operate effectively or to meet any requirement of the new source performance standards. In determining whether an unreasonable risk exists under clause (iii), the Administrator shall consider, among other factors, whether and to what extent the use of the proposed technological system will cause, increase, reduce, or eliminate emissions of any unregulated pollutants; available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such system; and the availability of other technological systems which may be used to conform to standards under subsection (b) of this section without causing or contributing to such unreasonable risk. The Administrator may conduct such tests and may require the owner or operator of the proposed source to conduct such tests and provide such information as is necessary to carry out clause (iii) of this subparagraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system if such pollutant was not emitted, or was emitted in significantly lesser amounts without use of such system.

(B) A waiver under this paragraph shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

(i) emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

(ii) proper functioning of the technological system or systems authorized.

Any such term or condition shall be treated as a standard of performance for the purposes of subsection (e) of this section and section 7413 of this title.

(C) The number of waivers granted under this paragraph with respect to a proposed technological system of continuous emission reduction shall not exceed such number as the Administrator finds necessary to ascertain whether or not such system will achieve the conditions specified in clauses (ii) and (iii) of subparagraph (A).

(D) A waiver under this paragraph shall extend to the sooner of—

(i) the date determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration the design, installation, and capital cost of the technological system or systems being used, or

(ii) the date on which the Administrator determines that such system has failed to—

(I) achieve at least an equivalent continuous emission reduction to that required to be achieved under the standards of performance which would otherwise apply, or

(II) comply with the condition specified in paragraph (1)(A)(iii),

and that such failure cannot be corrected.

(E) In carrying out subparagraph (D)(i), the Administrator shall not permit any waiver for a source or portion thereof to extend beyond the date—

(i) seven years after the date on which any waiver is granted to such source or portion thereof, or

(ii) four years after the date on which such source or portion thereof commences operation,

whichever is earlier.

(F) No waiver under this subsection shall apply to any portion of a source other than the portion on which the innovative technological system or systems of continuous emission reduction is used.

(2)(A) If a waiver under paragraph (1) is terminated under clause (ii) of paragraph (1)(D), the Administrator shall grant an extension of the requirements of this section for such source for such minimum period as may be necessary to comply with the applicable standard of performance under subsection (b) of this section. Such period shall not extend beyond the date three years from the time such waiver is terminated.

(B) An extension granted under this paragraph shall set forth emission limits and a compliance schedule containing increments of progress which require compliance with the applicable standards of performance as expeditiously as practicable and include such measures as are necessary and practicable in the interim to minimize emissions. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this section and section 7413 of this title.

(July 14, 1955, ch. 360, title I, § 111, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1683, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(f), 85 Stat. 464; Aug. 7, 1977, Pub. L. 95-95, title I, § 109(a)-(d)(1), (e), (f), title IV, § 401(b), 91 Stat. 697-703, 791; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(7)-(9), 91 Stat. 1399.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (a)(8), means Pub. L. 93-319, June 22, 1974, 88 Stat. 246, as amended, known as the Energy Supply and Environmental Coordination Act of 1974, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the

Code, see Short Title note set out under section 791 of Title 15 and Tables.

CODIFICATION

Section was formerly classified to section 1857c-6 of this title.

PRIOR PROVISIONS

A prior section 111 of Act July 14, 1955, was renumbered section 118 by Pub. L. 91-604, and is set out as section 7418 of this title.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-95, § 109(c)(1)(A), added subpars. (A), (B), and (C), substituted "For the purpose of subparagraphs (A)(i) and (ii) and (B), a standard of performance shall reflect" for "a standard for emissions of air pollutants which reflects", "and the percentage reduction achievable" for "achievable", and "technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environment impact and energy requirements)" for "system of emission reduction which (taking into account the cost of achieving such reduction)" in the existing provisions, and added provision that, for the purpose of subparagraph (1)(A)(ii), any cleaning of the fuel or reduction in the pollution characteristics of the fuel after extraction and prior to combustion may be credited, as determined under regulations promulgated by the Administrator, to a source which burns such fuel.

Subsec. (a)(7). Pub. L. 95-95, § 109(c)(1)(B), added subsec. (a)(7), defining "technological system of continuous emission reduction".

Subsec. (a)(8). Pub. L. 95-190, § 14(a)(7), redesignated subsec. (a)(7) as (a)(8), which for purposes of codification had already been redesignated as (a)(8), thereby requiring no further change in text.

Pub. L. 95-95, § 109(f), added a subsec. (a)(7) directing that under certain circumstances a conversion to coal not be deemed a modification for purposes of pars. (2) and (4), which was designated as (a)(8) for purposes of codification.

Subsec. (b)(1)(A). Pub. L. 95-95, § 401(b), substituted "such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger" for "such list if he determines it may contribute significantly to air pollution which causes or contributes to the endangerment of".

Subsec. (b)(1)(B). Pub. L. 95-95, § 109(c)(2), substituted "shall, at least every four years, review and, if appropriate," for "may, from time to time,".

Subsec. (b)(5), (6). Pub. L. 95-95, § 109(c)(3), added subsec. (b)(5) and (6).

Subsec. (c)(1). Pub. L. 95-95, § 109(d)(1), struck out "(except with respect to new sources owned or operated by the United States)" after "implement and enforce such standards".

Subsec. (d)(1). Pub. L. 95-95, § 109(b)(1), substituted "standards of performance" for "emission standards" and added provisions directing that regulations of the Administrator permit the State, in applying a standard of performance to any particular source under a submitted plan, to take into consideration, among other factors, the remaining useful life of the existing source to which the standard applies.

Subsec. (d)(2). Pub. L. 95-95, § 109(b)(2), provided that, in promulgating a standard of performance under a plan, the Administrator take into consideration, among other factors, the remaining useful lives of the sources in the category of sources to which the standard applies.

Subsecs. (f) to (i). Pub. L. 95-95, § 109(a), added subsecs. (f) to (i).

Subsec. (j). Pub. L. 95-190, § 14(a)(8), (9), redesignated subsec. (k) as (j) and, as so redesignated, substituted "(B)" for "(8)" as designation for second subpar. in par. (2). Former subsec. (j) added by Pub. L. 95-95, § 109(e), which related to compliance with applicable standards of performance, was struck out.

Subsec. (k). Pub. L. 95-190, § 14(a)(8), redesignated subsec. (k) as (j).

Pub. L. 95-95, § 109(e), added subsec. (k).

1971—Subsec. (b)(1)(B). Pub. L. 92-157 substituted in first sentence "publish proposed" for "propose".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7412, 7413, 7414, 7416, 7417, 7418, 7420, 7422, 7425, 7475, 7479, 7501, 7604, 7607, 7608, 7616, 7617, 7618 of this title.

§ 7412. National emission standards for hazardous air pollutants

(a) Definitions

For purposes of this section—

(1) The term "hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) The term "new source" means a stationary source the construction or modification of which is commenced after the Administrator proposes regulations under this section establishing an emission standard which will be applicable to such source.

(3) The terms "stationary source", "modification", "owner or operator" and "existing source" shall have the same meaning as such terms have under section 7411(a) of this title.

(b) List of hazardous air pollutants; emission standards; pollution control techniques

(1)(A) The Administrator shall, within 90 days after December 31, 1970, publish (and shall from time to time thereafter revise) a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section.

(B) Within 180 days after the inclusion of any air pollutant in such list, the Administrator shall publish proposed regulations establishing emission standards for such pollutant together with a notice of a public hearing within thirty days. Not later than 180 days after such publication, the Administrator shall prescribe an emission standard for such pollutant, unless he finds, on the basis of information presented at such hearings, that such pollutant clearly is not a hazardous air pollutant. The Administrator shall establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant.

(C) Any emission standard established pursuant to this section shall become effective upon promulgation.

(2) The Administrator shall, from time to time, issue information on pollution control techniques for air pollutant subject to the provisions of this section.

(c) Prohibited acts; exemption

(1) After the effective date of any emission standard under this section—

(A) no person may construct any new source or modify any existing source which in the Administrator's judgment, will emit an air pollutant to which such standard applies unless the Administrator finds that such source if properly operated will not cause emissions in violation of such standard, and

(B) no air pollutant to which such standard applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

(i) such standard shall not apply until 90 days after its effective date, and

(ii) the Administrator may grant a waiver permitting such source a period of up to two years after the effective date of a standard to comply with the standard, if he finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

(2) The President may exempt any stationary source from compliance with paragraph (1) for a period of not more than two years if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

(d) State implementation and enforcement

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards.

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard under this section.

(e) Design, equipment, work practice, and operational standards

(1) For purposes of this section, if in the judgment of the Administrator, it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in his judgment is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety. In the event the Administrator promulgates a design or equipment standard under this subsection, he shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

(2) For the purpose of this subsection, the phrase "not feasible to prescribe or enforce an emission standard" means any situation in which the Administrator determines that (A) a hazardous pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

(3) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

(4) Any standard promulgated under paragraph (1) shall be promulgated in terms of an emission standard whenever it becomes feasible to promulgate and enforce such standard in such terms.

(July 14, 1955, ch. 360, title I, § 112, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1685, and amended Aug. 7, 1977, Pub. L. 95-95, title I, §§ 109(d)(2), 110, title IV, § 401(c), 91 Stat. 701, 703, 791.)

CODIFICATION

Section was formerly classified to section 1857c-7 of this title.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-95, § 401(c), substituted "causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness" for "may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness".

Subsec. (d)(1). Pub. L. 95-95, § 109(d)(2), struck out "(except with respect to stationary sources owned or operated by the United States)" after "implement and enforce such standards".

Subsec. (e). Pub. L. 95-95, § 110, added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7411, 7413, 7414, 7416, 7417, 7418, 7420, 7422, 7479, 7604, 7607, 7608, 7616, 7618 of this title.

§ 7413. Federal enforcement procedures

(a) Finding of violation; notice; compliance order; civil action; State failure to enforce plan; construction or modification of major stationary sources

(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any requirement of an applicable implementation plan, the Administrator shall notify the person in violation of the plan and the State in which the plan applies of such finding. If such violation extends beyond the 30th day after the date of the Administrator's notification, the Administrator may issue an order requiring such person to comply with the requirements of such plan or he may bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan are so widespread that such violations appear to result from a failure of the State in which the plan applies to enforce the plan effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the 30th day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any requirement of such plan with respect to any person—

(A) by issuing an order to comply with such requirement, or

(B) by bringing a civil action under subsection (b) of this section.

(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 7411(e) of this title (relating to new source performance standards), section 7412(c) of this title (relating to standards for hazardous emissions), or section 1857c-10(g) of this title (relating to energy-related authorities) is in violation of any requirement of section 7414 of this title (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b) of this section.

(4) An order issued under this subsection (other than an order relating to a violation of section 7412 of this title) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers.

(5) Whenever, on the basis of information available to him, the Administrator finds that a State is not acting in compliance with any requirement of the regulation referred to in section 129(a)(1) of the Clean Air Act Amendments of 1977 (relating to certain interpretative regulations) or any plan provisions required under section 7410(a)(2)(I) of this title and part D, he may issue an order prohibiting the construction or modification of any major stationary source in any area to which such provisions apply or he may bring a civil action under subsection (b)(5) of this section.

(b) Violations by owners or operators of major stationary sources

The Administrator shall, in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever such person—

(1) violates or fails or refuses to comply with any order issued under subsection (a) of this section; or

(2) violates any requirement of an applicable implementation plan (A) during any period of Federally assumed enforcement, or (B) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such requirement; or

(3) violates section 7411(e), section 7412(c), section 1857c-10(g) of this title (as in effect before August 7, 1977), subsection (d)(5) of this section (relating to coal conversion), section 7624 of this title (relating to cost of certain vapor recovery), section 7419 of this title (relating to smelter orders), or any regulation under part B (relating to ozone); or

(4) fails or refuses to comply with any requirement of section 7414 of this title or subsection (d) of this section; or

(5) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator may commence a civil action for recovery of any noncompliance penalty under section 7420 of this title or for recovery of any nonpayment penalty for which any person is liable under section 7420 of this title or for both. Any action under this subsection may be brought in the district court of the United States for the district in which the violation occurred or in which the defendant resides or has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty and to collect any noncompliance penalty (and nonpayment penalty) owed under section 7420 of this title. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into consideration (in addition to other factors) the size of the business, the economic impact of the penalty on the business, and the seriousness of the violation. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.

(c) Penalties

(1) Any person who knowingly—

(A) violates any requirement of an applicable implementation plan (i) during any period of Federally assumed enforcement, or (ii) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such requirement, or

(B) violates or fails or refuses to comply with any order under section 7419 of this title or under subsection (a) or (d) of this section, or

(C) violates section 7411(e), section 7412(c) of this title, or

(D) violates any requirement of section 1857c-10(g) of this title (as in effect before August 7, 1977), subsection (b)(7) or (d)(5) of section 7420 of this title (relating to noncompliance penalties), or any requirement of part B (relating to ozone),

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(3) For the purpose of this subsection, the term "person" includes, in addition to the entities referred to in section 7602(e) of this title, any responsible corporate officer.

(d) Final compliance orders

(1) A State (or, after thirty days notice to the State, the Administrator) may issue to any stationary source which is unable to comply with any requirement of an applicable implementation plan an order which specifies a date for final compliance with such requirement later than the date for attainment of any national ambient air quality standard specified in such plan if—

(A) such order is issued after notice to the public (and, as appropriate, to the Administrator) containing the content of the proposed order and opportunity for public hearing;

(B) the order contains a schedule and timetable for compliance;

(C) the order requires compliance with applicable interim requirements as provided in paragraph (5)(B) (relating to sources converting to coal), and paragraph (6) and (7) (relating to all sources receiving such orders) and requires the emission monitoring and reporting by the source authorized to be required under sections 7410(a)(2)(F) and 7414(a)(1) of this title;

(D) the order provides for final compliance with the requirement of the applicable imple-

mentation plan as expeditiously as practicable, but (except as provided in paragraph (4) or (5)) in no event later than July 1, 1979, or three years after the date for final compliance with such requirement specified in such plan, whichever is later; and

(E) in the case of a major stationary source, the order notifies the source that, unless exempted under section 7420(a)(2) (B) or (C), it will be required to pay a noncompliance penalty effective July 1, 1979, as provided under section 7420 of this title or by such later date as is set forth in the order in accordance with section 7420 (b)(3) or (g) of this title in the event such source fails to achieve final compliance by July 1, 1979.

(2) In the case of any major stationary source, no such order issued by the State shall take effect until the Administrator determines that such order has been issued in accordance with the requirements of this chapter. The Administrator shall determine, not later than 90 days after receipt of notice of the issuance of an order under this subsection with respect to any major stationary source, whether or not any State order under this subsection is in accordance with the requirements of this chapter. In the case of any source other than a major stationary source, such order issued by the State shall cease to be effective upon a determination by the Administrator that it was not issued in accordance with the requirements of this chapter. If the Administrator so objects, he shall simultaneously proceed to issue an enforcement order in accordance with subsection (a) of this section or an order under this subsection. Nothing in this section shall be construed as limiting the authority of a State or political subdivision to adopt and enforce a more stringent emission limitation or more expeditious schedule or timetable for compliance than that contained in an order by the Administrator.

(3) If any source not in compliance with any requirement of an applicable implementation plan gives written notification to the State (or the Administrator) that such source intends to comply by means of replacement of the facility, a complete change in production process, or a termination of operation, the State (or the Administrator) may issue an order under paragraph (1) of this subsection permitting the source to operate until July 1, 1979, without any interim schedule of compliance: *Provided*, That as a condition of the issuance of any such order, the owner or operator of such source shall post a bond or other surety in an amount equal to the cost of actual compliance by such facility and any economic value which may accrue to the owner or operator of such source by reason of the failure to comply. If a source for which the bond or other surety required by this paragraph has been posted fails to replace the facility, change the production process, or terminate the operations as specified in the order by the required date, the owner or operator shall immediately forfeit on the bond or other surety and the State (or the Administrator) shall have no discretion to modify the order under this paragraph or to compromise the bond or other surety.

(4) An order under paragraph (1) of this subsection may be issued to an existing stationary source if—

(A) the source will expeditiously use new means of emission limitation which the Administrator determines is likely to be adequately demonstrated (within the meaning of section 7411(a)(1)) of this title upon expiration of the order,

(B) such new means of emission limitation is not likely to be used by such source unless an order is granted under this subsection.[1]

(C) such new means of emission limitation is determined by the Administrator to have a substantial likelihood of—

(i) achieving greater continuous emission reduction than the means of emission limitation which, but for such order, would be required; or

(ii) achieving an equivalent continuous reduction at lower cost in terms of energy, economic, or nonair quality environmental impact; and

(D) compliance by the source with the requirement of the applicable implementation plan would be impracticable prior to, or during, the installation of such new means.

Such an order shall provide for final compliance with the requirement in the applicable implementation plan as expeditiously as practicable, but in no event later than five years after the date on which the source would otherwise be required to be in full compliance with the requirement.

(5)(A) In the case of a major stationary source which is burning petroleum products or natural gas, or both and which—

(i) is prohibited from doing so under an order pursuant to the provisions of section 792(a) of title 15, or any amendment thereto, or any subsequent enactment which supersedes such provisions, or

(ii) within one year after August 7, 1977, gives notice of intent to convert to coal as its primary energy source because of actual or anticipated curtailment of natural gas supplies under any curtailment plan or schedule approved by the Federal Power Commission (or, in the case of intrastate natural gas supplies, approved by the appropriate State regulatory commission),

and which thereby would no longer be in compliance with any requirement under an applicable implementation plan, an order may be issued by the Administrator under paragraph (1) of this subsection for such source which specifies a date for final compliance with such requirement as expeditiously as practicable, but not later than December 31, 1980. The Administrator may issue an additional order under paragraph (1) of this subsection for such source providing an additional period for such source to come into compliance with the requirement in the applicable implementation plan, which shall be as expeditiously as practicable, but in no event later than five years after the date required for compliance under the preceding sentence.

[1] So in original. Probably the period should be a comma.

(B) In issuing an order pursuant to subparagraph (A), the Administrator shall prescribe (and may from time to time modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for control of emissions for each source to which such an order applies. Such limitations, requirements, and measures shall be those which the Administrator determines must be complied with by the source in order to assure (throughout the period before the date for final compliance established in the order) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

(C) The Administrator may, by regulation, establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out this paragraph shall provide such systems to users thereof, if he finds, after consultation with the States, that priorities must be imposed in order to assure that such systems are first provided to sources subject to orders under this paragraph in air quality control regions in which national primary ambient air quality standards have not been achieved. No regulation under this subparagraph may impair the obligation of any contract entered into before August 7, 1977.

(D) No order issued to a source under this paragraph with respect to an air pollutant shall be effective if the national primary ambient air quality standard with respect to such pollutant is being exceeded at any time in the air quality control region in which such source is located. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and public hearing)—

(i) that emissions of such air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

(iii) with reasonable statistical assurance that emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant.

(6) An order issued to a source under this subsection shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable.

(7) A source to which an order is issued under paragraph (1), (3), (4), or (5) of this subsection shall use the best practicable system or systems of emission reduction (as determined by the Administrator taking into account the requirement with which the source must ultimately comply) for the period during which such order is in effect and shall comply with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include—

(A) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and

(B) a requirement that the source comply with the requirements of the applicable implementation plan during any such period insofar as such source is able to do so (as determined by the Administrator).

(8) Any order under paragraph (1) of this subsection shall be terminated if the Administrator determines on the record, after notice and hearing, that the inability of the source to comply no longer exists. If the owner or operator of the source to which the order is issued demonstrates that prompt termination of such order would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under this subsection.

(9) If the Administrator determines that a source to which an order is issued under this subsection is in violation of any requirement of this subsection, he shall—

(A) enforce such requirement under subsections (a), (b), or (c) of this section,

(B) (after notice and opportunity for public hearing) revoke such order and enforce compliance with the requirement with respect to which such order was granted,

(C) give notice of noncompliance and commence action under section 7420 of this title, or

(D) take any appropriate combination of such actions.

(10) During the period of the order in effect under this subsection and where the owner or operator is in compliance with the terms of such order, no Federal enforcement action pursuant to this section and no action under section 7604 of this title shall be pursued against such owner or operator based upon noncompliance during the period the order is in effect with the requirement for the source covered by such order.

(11) For the purposes of sections 7410, 7604, and 7607 of this title, any order issued by the State and in effect pursuant to this subsection shall become part of the applicable implementation plan.

(12) Any enforcement order issued under subsection (a) of this section or any consent decree in an enforcement action which is in effect on August 7, 1977, shall remain in effect to the extent that such order or consent decree is (A) not inconsistent with the requirements of this subsection and section 7419 of this title or (B) the administrative orders on consent issued by the Administrator on November 5, 1975 and February 26, 1976 and requiring compliance with sulfur dioxide emission limitations or standards at least as stringent as those promulgated under section 7411 of this title. Any such

enforcement order issued under subsection (a) of this section or consent decree which provides for an extension beyond July 1, 1979, except such administrative orders on consent, is void unless modified under this subsection within one year after August 7, 1977, to comply with the requirements of this subsection.

(July 14, 1955, ch. 360, title I, § 113, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1686, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(b), (c), 85 Stat. 464; June 22, 1974, Pub. L. 93-319, § 6(a)(1)-(3), 88 Stat. 259; Aug. 7, 1977, Pub. L. 95-95, title I, §§ 111, 112(a), 91 Stat. 704, 705; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(10)-(21), (b)(1), 91 Stat. 1400, 1404.)

References in Text

Section 1857c-10(g) of this title, referred to in subsec. (a)(3), was in the original "119(g)", meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, which was classified to section 1857c-10 of this title. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to subsec. (d)(5) of this section. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

Section 129(a)(1) of the Clean Air Act Amendments of 1977, referred to in subsec. (a)(5), is Pub. L. 95-95, § 129(a)(1), Aug. 7, 1977, 91 Stat. 745, which is set out as a note under section 7502 of this title.

Section 1857c-10(g) of this title (as in effect before August 7, 1977), referred to in subsecs. (b)(3) and (c)(1)(D), was in the original "section 119(g) (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)", meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, (which was classified to section 1857c-10 of this title) as in effect prior to the enactment of Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 691, effective Aug. 7, 1977. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to subsec. (d)(5) of this section. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

Codification

Section was formerly classified to section 1857c-8 of this title.

Amendments

1977—Subsec. (a)(5). Pub. L. 95-95, § 111(a), added subsec. (a)(5).

Subsec. (b). Pub. L. 95-95, § 111(b), (c), substituted "shall, in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever such person" for "may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person" in the provisions preceding par. (1), added references to subsec. (d)(5) of this section, sections 7419 and 7620 of this title, and regulations under part in par. (3), added reference to subsec. (d) of this section in par. (4), added par. (5), and, in the provisions following par. (5), authorized the commencement of civil actions to recover noncompliance penalties and nonpayment penalties under section 7420 of this title, expanded the jurisdictional provisions to authorize actions in districts in which the violation occurred and to authorize the district court to restrain violations, to require compliance, to assess civil penalties, and to collect penalties under section 7420 of this title, enumerated the factors to be taken into consideration in determining the amount of civil penalties, and authorized the awarding of costs to the party or parties against whom the action was brought in cases where the court finds that the action was unreasonable.

Subsec. (b)(3). Pub. L. 95-190, § 14(a)(10), (11), added "or" following "ozone);", and substituted "7624" for "7620", "conversion), section" for "conversion) section", and "orders), or" for "orders) or".

Subsec. (c)(1). Pub. L. 95-95, § 111(d)(1), (2), substituted "any order issued under section 7419 of this title or under subsection (a) or (d) of this section" for "any order issued by the Administrator under subsection (a) of this section" in subpar. (B), struck out reference to section 119(g) (as in effect before the date of the enactment of Pub. L. 95-95) in subpar. (C), and added subpar. (D).

Subsec. (c)(1)(B). Pub. L. 95-190, § 14(a)(12), added "or" following "section,".

Subsec. (c)(1)(D). Pub. L. 95-190, § 14(a)(13), substituted "1977 subsection" for "1977) subsection" and "penalties), or" for "penalties) or".

Subsec. (c)(3). Pub. L. 95-95, § 111(d)(3), added subsec. (c)(3).

Subsec. (d). Pub. L. 95-95, § 112(a), added subsec. (d).

Subsec. (d)(1). Pub. L. 95-190, § 14(a)(14), substituted "to any stationary source which is unable to comply with any requirement of an applicable implementation plan an order" for "an order for any stationary source" and "such requirement" for "any requirement of an applicable implementation plan".

Subsec. (d)(1)(E). Pub. L. 95-190, § 14(a)(15), added provision relating to exemption under section 7420(a)(2)(B) or (C) of this title, provision relating to noncompliance penalties effective July 1, 1979, and reference to subsec. (b)(3) or (g) of section 7420 of this title.

Subsec. (d)(2). Pub. L. 95-190, § 14(a)(16), added provisions relating to determinations by the Administrator of compliance with requirements of this chapter of State orders issued under this subsection.

Subsec. (d)(4)(A). Pub. L. 95-190, § 14(a)(17), substituted "title) upon" for "title upon".

Subsec. (d)(5)(A). Pub. L. 95-190, § 14(a)(18), substituted "an additional period for" for "an additional period of".

Subsec. (d)(8). Pub. L. 95-190, § 14(a)(19), struck out reference to par. (3) of this subsection.

Subsec. (d)(10). Pub. L. 95-190, § 14(a)(20), substituted "in effect" for "issued", "Federal" for "other", and "and no action under" for "or".

Subsec. (d)(11). Pub. L. 95-190, § 14(a)(21), substituted "and in effect" for "(and approved by the Administrator)".

1974—Subsec. (a)(3). Pub. L. 93-319, § 6(a)(1), inserted reference to section 1857c-10(g) of this title (relating to energy-related authorities).

Subsec. (b)(3). Pub. L. 93-319, § 6(a)(2), inserted reference to section 1857c-10(g) of this title.

Subsec. (c)(1)(C). Pub. L. 93-319, § 6(a)(3), inserted reference to section 1857c-10(g) of this title.

1971—Subsec. (b)(2). Pub. L. 92-157, § 302(b), inserted "(A)" preceding "during" and ", or (B)" following "assumed enforcement".

Subsec. (c)(1)(A). Pub. L. 92-157, § 302(c), inserted "(i)" preceding "during" and ", or (ii)" following "assumed enforcement".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7407, 7410, 7411, 7414, 7419, 7420, 7421, 7425, 7426, 7604, 7606, 7607 of this title; title 15 section 792.

§ 7414. Recordkeeping, inspections, monitoring, and entry

(a) Authority of Administrator or authorized representative

For the purpose (i) of developing or assisting in the development of any implementation plan under section 7410 or section 7411(d) of this title any standard of performance under section 7411 of this title, or any emission standard under section 7412 of this title, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out any provision of this chapter (except a provision of subchapter II of this chapter with respect to a manufacturer of new motor vehicles or new motor vehicle engines)—

(1) the Administrator may require any person who owns or operates any emission source or who is subject to any requirement of this chapter (other than a manufacturer subject to the provisions of section 7525(c) or 7542 of this title) with respect to a provision of subchapter II of this chapter to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information as he may reasonably require; and

(2) the Administrator or his authorized representative, upon presentation of his credentials—

(A) shall have a right of entry to, upon, or through any premises of such person or in which any records required to be maintained under paragraph (1) of this section are located, and

(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which such person is required to sample under paragraph (1).

(b) State enforcement

(1) Each State may develop and submit to the Administrator a procedure for carrying out this section in such State. If the Administrator finds the State procedure is adequate, he may delegate to such State any authority he has to carry out this section.

(2) Nothing in this subsection shall prohibit the Administrator from carrying out this section in a State.

(c) Availability of records, reports, and information to public; disclosure of trade secrets

Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter.

(d) Notice of proposed entry, inspection, or monitoring

(1) In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of an order under section 7413(d) of this title, before carrying out an entry, inspection, or monitoring under paragraph (2) of subsection (a) of this section with respect to such standard, limitation, or other requirement, the Administrator (or his representatives) shall provide the State air pollution control agency with reasonable prior notice of such action, indicating the purpose of such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in

the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation, or other requirement which is not part of an applicable implementation plan or which was promulgated by the Administrator under section 7410(c) of this title.

(2) Nothing in paragraph (1) shall be construed to provide that any failure of the Administrator to comply with the requirements of such paragraph shall be a defense in any enforcement action brought by the Administrator or shall make inadmissible as evidence in any such action any information or material obtained notwithstanding such failure to comply with such requirements.

(July 14, 1955, ch. 360, title I, § 114, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1687, and amended June 22, 1974, Pub. L. 93-319, § 6(a)(4), 88 Stat. 259; Aug. 7, 1977, Pub. L. 95-95, title I, §§ 109(d)(3), 113, title III, § 305(d), 91 Stat. 701, 709, 776; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(22), (23), 91 Stat. 1400.)

CODIFICATION

Section was formerly classified to section 1857c-9 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-190, § 14(a)(22), added reference to subchapter II of this chapter and "new" proceding "motor" in two places.

Pub. L. 95-95, § 305(d), substituted "carrying out any provision of this chapter (except with respect to a manufacturer of motor vehicles or motor vehicle engines)" for "carrying out sections 119 or 303" in cl. (iii) preceding par. (1), substituted "any person subject to any requirement of this chapter (other than a manufacturer subject to the provisions of sections 7525(c) or 7542 of this title)" for "the owner or operator of any emission source" in par. (1), substituted "any premises of such person" for "any premises in which an emission source is located" in subpar. (A) of par. (2), and substituted "emissions which such person is required to sample" for "emissions which the owner or operator of such source is required to sample" in subpar. (B) of subpar. (2).

Subsec. (a)(1). Pub. L. 95-190, § 14(a)(23), added reference to subchapter II of this chapter and "who owns or operates any emission source or who is" following "any person".

Subsec. (b)(1). Pub. L. 95-95, § 109(d)(3), struck out "(except with respect to new sources owned or operated by the United States)" following "to carry out this section".

Subsec. (d). Pub. L. 95-95, § 113, added subsec. (d).

1974—Subsec. (a). Pub. L. 93-319 inserted reference to section 119.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7411, 7413 of this title.

§ 7415. International air pollution

(a) Endangerment of public health or welfare in foreign countries from pollution emitted in United States

Whenever the Administrator, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the Governor of the State in which such emissions originate.

(b) Prevention or elimination of endangerment

The notice of the Administrator shall be deemed to be a finding under section 7410(a)(2)(H)(ii) of this title which requires a plan revision with respect to so much of the applicable implementation plan as is inadequate to prevent or eliminate the endangerment referred to in subsection (a) of this section. Any foreign country so affected by such emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.

(c) Reciprocity

This section shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this section.

(d) Recommendations

Recommendations issued following any abatement conference conducted prior to August 7, 1977, shall remain in effect with respect to any pollutant for which no national ambient air quality standard has been established under section 7409 of this title unless the Administrator, after consultation with all agencies which were party to the conference, rescinds any such recommendation on grounds of obsolescence.

(July 14, 1955, ch. 360, title I, § 115, formerly § 5, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 396, renumbered § 105, and amended Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(2), (3), 102, 79 Stat. 992, 995, renumbered § 108 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 491, renumbered § 115 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (b)(2)-(10), 15(c)(2), 84 Stat. 1678, 1688, 1689, 1713; Aug. 7, 1977, Pub. L. 95-95, title I, § 114, 91 Stat. 710.)

CODIFICATION

Section was formerly classified to section 1857d of this title.

PRIOR PROVISIONS

A prior section 5 of act July 14, 1955, ch. 360, 69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, which was classified to a prior section 1857d of this title prior to the general amendment of this chapter by Pub. L. 88-206, related to appropriations, grants-in-aid and contracts.

AMENDMENTS

1977—Pub. L. 95-95 completely revised the section by substituting provisions establishing a mechanism for the Administrator to trigger a revision of a State implementation plan under section 7410(a)(2)(H) upon a petition of an international agency or the Secretary of State if he finds that emissions originating in a State endanger the health or welfare of persons in a foreign country for provisions calling for the abatement of air pollution by means of conference procedures.

1970—Subsec. (a). Pub. L. 91-604, § 4(b)(2), added "and which is covered by subsection (b) or (c) of this section" following "persons".

Subsec. (b). Pub. L. 91-604, §§ 4(b)(3), (4), (5), 15(c)(2), redesignated former subsec. (d)(1)(A), (B), and (C) as (b)(1), (2), and (3), and, as so redesignated, substituted "Administrator" for "Secretary" wherever appearing therein, and added subsec. (b)(4). Former subsec. (b), which related to the encouragement of municipal, State, and interstate action to abate air pollution, was struck out.

Subsec. (c). Pub. L. 91-604, §§ 4(b)(3), (6), 15(c)(2), redesignated former subsec. (d)(1)(D) as (c), and, as so redesignated, substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare" wherever appearing therein and "subsection" for "subparagraph" wherever appearing therein. Former subsec. (c), which related to the procedure for the promulgation of State air quality standards, was struck out.

Subsec. (d). Pub. L. 91-604, §§ 4(b)(4), (6), (7), (8), 15(c)(2), redesignated former subsec. (d)(2) and (3) as (d)(1) and (2), and, as so redesignated, in (d)(1) substituted "Administrator" for "Secretary" wherever appearing therein and "any conference under this section" for "such conference", and in (d)(2) substituted "Administrator" for "Secretary". Former subsec. (d)(1)(A), (B), and (C) were redesignated as (b)(1), (2), and (3), respectively, and subsec. (d)(1)(D) was redesignated as (c).

Subsec. (e). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (f). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (g). Pub. L. 91-604, §§ 4(b)(9), 15(c)(2), substituted "Administrator" for "Secretary" and "subsection (c)" for "subparagraph (D) of subsection (d)".

Subsec. (i). Pub. L. 91-604, § 15(c)(2) substituted "Administrator" for "Secretary".

Subsec. (j). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (k). Pub. L. 91-604, § 4(b)(3), (10), substituted provisions relating to compliance with any requirement of an applicable implementation plan or with any standard prescribed under section 7411 of this title or section 7412 of this title, for provisions relating to the enjoining of imminent and substantial endangerment from pollution sources.

1967—Subsec. (b). Pub. L. 90-148 substituted reference to subsecs. (c), (h), or (k) of this section for reference to subsec. (g) of this section.

Subsec. (c). Pub. L. 90-148 added subsec. (c). Former subsec. (c) redesignated as subsec. (d) and amended.

Subsec. (d). Pub. L. 90-148 redesignated former subsec. (c) as subsec. (d) and, subsec. (d) as so redesignated, inserted into par. (2) provisions for the delivery prior to the conference of a Federal report to agencies and interested parties covering matters before the conference, raised from three weeks to thirty days the required notice of the conference, and added provisions for notice by newspapers, presentation of views on the Federal report, and transcript of proceedings. Former subsec. (d) redesignated as subsec. (e).

Subsec. (e). Pub. L. 90-148 redesignated former subsec. (d) as subsec. (e). Former subsec. (e) redesignated as subsec. (f) and amended.

Subsec. (f). Pub. L. 90-148 redesignated former subsec. (e) as subsec. (f) and, in subsec. (f) as so redesignated, inserted into par. (1) requirement that all interested parties be given a reasonable opportunity to present evidence to the hearing board. Former subsec. (f) redesignated as subsec. (g) and amended.

Subsec. (g). Pub. L. 90-148 redesignated former subsec. (f) as subsec. (g) and, in subsec. (g) as redesignated, substituted reference to subsec. (d) of this section for reference to subsec. (c) of this section. Former subsec. (g) redesignated as subsec. (h) and amended.

Subsec. (h). Pub. L. 90-148 redesignated former subsec. (g) as subsec. (h) and, in subsec. (h) as so redesignated, substituted reference to subsec. (g) of this section for reference to subsec. (f) of this section. Former subsec. (h) redesignated as subsec. (i) and amended.

Subsec. (i). Pub. L. 90-148 redesignated former subsec. (h) as subsec. (i) and, in subsec. (i) as so redesignated, substituted reference to subsec. (f) of this section for reference to subsec. (e) of this section and raised the per diem maximum from $50 to $100. Former subsec. (i) redesignated as subsec. (j).

Subsec. (j). Pub. L. 90-148 redesignated former subsec. (i) as subsec. (j).

Subsec (k). Pub. L. 90-148 added subsec. (k).

1965—Subsec. (b). Pub. L. 89-272, § 101(2), substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter."

Subsec. (c)(1)(D). Pub. L. 89-272, § 102(a), added subpar. (D).

Subsec. (d)(3). Pub. L. 89-272, § 101(2), substituted "subchapter" for "chapter".

Subsec. (f)(1). Pub. L. 89-272, § 102(b), inserted "(A)" and added cl. (B).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section

406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7403 of this title.

§ 7416. Retention of State authority

Except as otherwise provided in sections 1857c-10(c), (e), and (f) (as in effect before August 7, 1977), 7543, 7545(c)(4), and 7573 of this title (preempting certain State regulation of moving sources) nothing in this chapter shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 7411 or section 7412 of this title, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.

(July 14, 1955, ch. 360, title I, § 116, formerly § 109, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 497, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, § 4(a), (c), 84 Stat. 1678, 1689; June 22, 1974, Pub. L. 93-319, § 6(b), 88 Stat. 259; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(24), 91 Stat. 1400.)

REFERENCES IN TEXT

"1857c-10(c), (e), and (f) (as in effect before August 7, 1977)", referred to in text, was in the original "119(c), (e), and (f) (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, (which was classified to section 1857c-10 of this title) as in effect prior to the enactment of Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 691, effective Aug. 7, 1977. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to subsec. (d)(5) of section 7413 of this title. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

CODIFICATION

Section was formerly classified to section 1857d-1 of this title.

AMENDMENTS

1977—Pub. L. 95-190 added reference to specified provisions in effect before Aug. 7, 1977.

1974—Pub. L. 93-319 inserted reference to section 1857c-10(c), (e), and (f).

1970—Pub. L. 91-604, § 4(c), substituted provisions which authorized any State or political subdivision thereof to adopt or enforce, except as otherwise provided, emission standards or limitations under the specified conditions, or any requirement respecting control or abatement of air pollution, for provisions which authorized any State, political subdivision, or intermunicipal or interstate agency to adopt standards and plans to achieve a higher level of air quality than approved by the Secretary.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7417. Advisory committees

(a) Establishment; membership

In order to obtain assistance in the development and implementation of the purposes of this chapter including air quality criteria, recommended control techniques, standards, research and development, and to encourage the continued efforts on the part of industry to improve air quality and to develop economically feasible methods for the control and abatement of air pollution, the Administrator shall from time to time establish advisory committees. Committee members shall include, but not be limited to, persons who are knowledgeable concerning air quality from the standpoint of health, welfare, economics or technology.

(b) Compensation

The members of any other advisory committees appointed pursuant to this chapter who are not officers or employees of the United States while attending conferences or meetings or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(c) Consultations by Administrator

Prior to—

(1) issuing criteria for an air pollutant under section 7408(a)(2) of this title,

(2) publishing any list under section 7411(b)(1)(A) or section 7412(b)(1)(A) of this title,

(3) publishing any standard under section 7411(b)(1)(B) or section 7412(b)(1)(B) of this title, or

(4) publishing any regulation under section 7521(a) of this title,

the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, independence experts, and Federal departments and agencies.

(July 14, 1955, ch. 360, title I, §§ 117 formerly § 6, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 106, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, renumbered § 110 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 498, and renumbered § 117 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (d), 15(c)(2), 84 Stat. 1678, 1689, 1713; Aug. 7, 1977, Pub. L. 95-95, title I, § 115, 91 Stat. 711.)

CODIFICATION

Subsec. (c) was originally enacted as subsec. (f) but has been redesignated (c) for purposes of codification in view of the omission by Pub. L. 95-95 to redesignate subsec. (f) as (c) after repealing former subsecs. (a) and (b) and redesignating former subsecs. (d) and (e) as (a) and (b).

Section was formerly classified to section 1857e of this title.

PRIOR PROVISIONS

A prior section 6 of act July 14, 1955, ch. 360, 69 Stat. 323, which was classified to a prior section 1857e of this title, prior to the general amendment of this chapter by Pub. L. 88-206, defined "State air pollution control agency", "local government air pollution control agency" and "State". See section 7602 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-95, § 115(1), (2), redesignated subsec. (d) as (a). Former subsec. (a), establishing an Air Quality Advisory Board in the Environmental Protection Agency, was stricken.

Subsec. (b). Pub. L. 95-95, § 115(1) to (3), redesignated subsec. (e) as (b) and, in subsec. (b) as so redesignated, substituted "The members of any other advisory committees" for "The members of the Board and other advisory committees" and "conferences or meetings or while otherwise serving" for "conferences or meetings of the Board or while otherwise serving". Former subsec. (b), setting out the duties of the Air Quality Advisory Board, was stricken.

Subsecs. (c) to (e). Pub. L. 95-95, § 115(1), (2), struck out subsec. (c), which related to clerical and technical assistance for the Air Quality Advisory Board, and redesignated subsecs. (d) and (e) as (a) and (b), respectively.

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Environmental Protection Agency" for "Department of Health, Education, and Welfare" and "Administrator" for "Secretary".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (c). Pub. L. 91-604, § 15(c)(2), substituted "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (d). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (f). Pub. L. 91-604, § 4(d), added subsec. (f).

1967—Subsec. (a). Pub. L. 90-148 substituted provisions establishing in the Department of Health, Education, and Welfare an Air Quality Advisory Board and providing for the appointment and term of its members for provisions directing the Secretary to maintain liaison with manufacturers looking toward development of devices and fuels to reduce pollutants in automotive exhaust and to appoint a technical committee and call it together from time to time to evaluate progress and develop and recommend research programs.

Subsec. (b). Pub. L. 90-148 substituted provision setting out the duties of the Air Quality Advisory Board for provisions requiring the Secretary to make semi-annual reports to Congress on measures being taken toward the resolution of vehicle exhaust pollution problems.

Subsecs. (c) to (e). Pub. L. 90-148 added subsecs. (c) to (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7418. Control of pollution from Federal facilities

(a) Compliance with requirements, administrative authority, process, and sanctions respecting control and abatement of air pollution

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal,

State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty for which he is not otherwise liable.

(b) Exemption

The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 7411 of this title, and an exemption from section 7412 of this title may be granted only in accordance with section 7412(c) of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(July 14, 1955, ch. 360, title I, § 118, formerly, § 7, as added Dec. 17, 1963. Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 107, Oct. 20, 1965, Pub. L. 89-272, title I, 101(3), 79 Stat. 992, renumbered § 111 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499, and renumbered § 118 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), 5, 84 Stat. 1678, 1689; Aug. 7, 1977, Pub. L. 95-95, title I, § 116, 91 Stat. 711.)

Codification

Section was formerly classified to section 1857f of this title.

Prior Provisions

A prior section 7 of act July 14, 1955, ch. 360, 69 Stat. 323, which was classified to a prior section 1857f of this title, related to research and experiments under other laws.

Amendments

1977—Subsec. (a). Pub. L. 95-95, § 116(a), designated the existing first sentence as subsec. (a) and, in subsec. (a) as so designated, added provisions enumerating the legal and administrative areas to which the compliance requirements apply and directing that agencies, officers, agents, and employees not be immune and that officers, agents, or employees of the United States not be personally liable for civil penalties for which they are not otherwise liable.

Subsec. (b). Pub. L. 95-95, § 116(b), designated the second and following existing sentences as subsec. (b) and, in subsec. (b) as so designated, added provisions authorizing the President to exempt weaponry, equipment, aircraft, vehicles, and other classes and categories of property of the Armed Forces and the National Guard from compliance but to reconsider the need for such an exemption at three-year intervals.

1970—Pub. L. 91-604, § 5, struck out lettered designations (a) and (b), and, as so redesignated, substituted provisions requiring Federal facilities to comply with Federal, State, local, and interstate air pollution control and abatement requirements and provisions authorizing the President to exempt, under the specified terms and conditions, any emission source of any department, etc., in the executive branch from compliance with control and abatement requirements, for provisions requiring, to the extent practicable and consistent with the interests of the United States and within any available appropriations, Federal facilities to cooperate with the Department of Health, Education, and Welfare and with any air pollution control agency to prevent and control air pollution and provisions authorizing the Secretary to establish classes of potential pollution sources for which any Federal department or agency having jurisdiction over any facility was required to obtain a permit, under the specified terms and conditions, for the discharge of any matter into the air of the United States.

1967—Pub. L. 90-148 reenacted section without change.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Pending Actions and Proceedings

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Modification or Rescission of Rules, Regulations, Orders, Determinations, Contracts, Certifications, Authorizations, Delegations, and Other Actions

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursu-

ant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

EXECUTIVE ORDER No. 11282

Ex. Ord., No. 11282, May 26, 1966, 31 F.R. 7663, which provided for the prevention, control, and abatement of air pollution from federal activities, was superseded by Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573.

EXECUTIVE ORDER No. 11507

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, which provided for the prevention, control, and abatement of air pollution at federal facilities, was superseded by Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title.

EXECUTIVE ORDER No. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of air pollution at Federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7423, 7604 of this title.

§ 7419. Primary nonferrous smelter orders

(a) Issuance; hearing; enforcement orders; statement of grounds for application; findings

(1) Upon application by the owner or operator of a primary nonferrous smelter, a primary nonferrous smelter order under subsection (b) of this section may be issued—

(A) by the Administrator, after thirty days' notice to the State, or

(B) by the State in which such source is located, but no such order issued by the State shall take effect until the Administrator determines that such order has been issued in accordance with the requirements of this chapter.

Not later than ninety days after submission by the State to the Administrator of notice of the issuance of a primary nonferrous smelter order under this section, the Administrator shall determine whether or not such order has been issued by the State in accordance with the requirements of this chapter. If the Administrator determines that such order has not been issued in accordance with such requirements, he shall conduct a hearing respecting the reasonably available control technology for primary nonferrous smelters.

(2)(A) An order issued under this section to a primary nonferrous smelter shall be referred to as a "primary nonferrous smelter order". No primary nonferrous smelter may receive both an enforcement order under section 7413(d) of this title and a primary nonferrous smelter order under this section.

(B) Before any hearing conducted under this section, in the case of an application made by the owner or operator of a primary nonferrous smelter for a second order under this section, the applicant shall furnish the Administrator (or the State as the case may be) with a statement of the grounds on which such application is based (including all supporting documents and information). The statement of the grounds for the proposed order shall be provided by the Administrator or the State in any case in which such State or Administrator is acting on its own initiative. Such statement (including such documents and information) shall be made available to the public for a thirty-day period before such hearing and shall be considered as part of such hearing. No primary nonferrous smelter order may be granted unless the applicant establishes that he meets the conditions required for the issuance of such order (or the Administrator or State establishes the meeting of such conditions when acting on their own initiative).

(C) Any decision with respect to the issuance of a primary nonferrous smelter order shall be accompanied by a concise statement of the findings and of the basis of such findings.

(3) For the purposes of sections 7410, 7604, and 7607 of this title, any order issued by the State and in effect pursuant to this subsection shall become part of the applicable implementation plan.

(b) Prerequisites to issuance of orders

A primary nonferrous smelter order under this section may be issued to a primary nonferrous smelter if—

(1) such smelter is in existence on August 7, 1977;

(2) the requirement of the applicable implementation plan with respect to which the order is issued is an emission limitation or standard for sulfur oxides which is necessary and intended to be itself sufficient to enable attainment and maintenance of national primary and secondary ambient air quality standards for sulfur oxides; and

(3) such smelter is unable to comply with such requirement by the applicable date for compliance because no means of emission limitation applicable to such smelter which will enable it to achieve compliance with such requirement has been adequately demonstrated to be reasonably available (as determined by the Administrator, taking into account the cost of compliance, non-air quality health and environmental impact and energy consideration).

(c) Second orders

(1) A second order issued to a smelter under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. The increments of progress shall be limited to requiring compliance with subsection (d) of this section and, in the case of a second order, to procuring, installing, and operating the necessary means of emission limitation as expeditiously as practicable after the Administrator determines such means have been adequately demonstrated to be reasonably available within the meaning of subsection (b)(3) of this section.

(2) Not in excess of two primary nonferrous smelter orders may be issued under this section

to any primary nonferrous smelter. The first such order issued to a smelter shall not result in the postponement of the requirement with respect to which such order is issued beyond January 1, 1983. The second such order shall not result in the postponement of such requirement beyond January 1, 1988.

(d) Interim measures; continuous emission reduction technology

(1)(A) Each primary nonferrous smelter to which an order is issued under this section shall be required to use such interim measures for the period during which such order is in effect as may be necessary in the judgment of the Administrator to assure attainment and maintenance of the national primary and secondary ambient air quality standards during such period, taking into account the aggregate effect on air quality of such order together with all variances, extensions, waivers, enforcement orders, delayed compliance orders and primary nonferrous smelter orders previously issued under this chapter.

(B) Such interim requirements shall include—

(i) a requirement that the source to which the order applies comply with such reporting requirements and conduct such monitoring as the Administrator determines may be necessary, and

(ii) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons.

(C) Such interim measures shall also, except as provided in paragraph (2), include continuous emission reduction technology. The Administrator shall condition the use of any such interim measures upon the agreement of the owner or operator of the smelter—

(i) to comply with such conditions as the Administrator determines are necessary to maximize the reliability and enforceability of such interim measures, as applied to the smelter, in attaining and maintaining the national ambient air quality standards to which the order relates, and

(ii) to commit reasonable resources to research and development of appropriate emission control technology.

(2) The requirement of paragraph (1) for the use of continuous emission reduction technology may be waived with respect to a particular smelter by the State or the Administrator, after notice and a hearing on the record, and upon a showing by the owner or operator of the smelter that such requirement would be so costly as to necessitate permanent or prolonged temporary cessation of operations of the smelter. Upon application for such waiver, the Administrator shall be notified and shall, within ninety days, hold a hearing on the record in accordance with section 554 of title 5. At such hearing the Administrator shall require the smelter involved to present information relating to any alleged cessation of operations and the detailed reasons or justifications therefor. On the basis of such hearing the Administrator shall make findings of fact as to the effect of such requirement and on the alleged cessation of operations and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public, and shall be taken into account by the State or the Administrator in making the decision whether or not to grant such waiver.

(3) In order to obtain information for purposes of a waiver under paragraph (2), the Administrator may, on his own motion, conduct an investigation and use the authority of section 7621 of this title.

(4) In the case of any smelter which on August 7, 1977, uses continuous emission reduction technology and supplemental controls and which receives an initial primary nonferrous smelter order under this section, no additional continuous emission reduction technology shall be required as a condition of such order unless the Administrator determines, at any time, after notice and public hearing, that such additional continuous emission reduction technology is adequately demonstrated to be reasonably available for the primary nonferrous smelter industry.

(e) Termination of orders

At any time during which an order under this section applies, the Administrator may enter upon a public hearing respecting the availability of technology. Any order under this section shall be terminated if the Administrator determines on the record, after notice and public hearing, that the conditions upon which the order was based no longer exist. If the owner or operator of the smelter to which the order is issued demonstrates that prompt termination of such order would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under subsection (c) of this section.

(f) Violation of requirements

If the Administrator determines that a smelter to which an order is issued under this section is in violation of any requirement of subsection (c) or (d) of this section, he shall—

(1) enforce such requirement under section 7413 of this title,

(2) (after notice and opportunity for public hearing) revoke such order and enforce compliance with the requirement with respect to which such order was granted,

(3) give notice of noncompliance and commence action under section 7420 of this title, or

(4) take any appropriate combination of such actions.

(July 14, 1955, ch. 360, title I, § 119, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 117(b), 91 Stat. 712, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(25)-(27), 91 Stat. 1401.)

PRIOR PROVISIONS

A prior section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, which was classified to section 1857c-10 of this title, provided for the authority to deal with energy shortages. Such section 119 was repealed by Pub. L. 95-95, title I, § 112(b)(1), Aug. 7, 1977, 91 Stat. 709.

which provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to section 7413(d)(5) of this title.

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-190, § 14(a)(25), added subsec. (a)(3).

Subsec. (d)(3). Pub. L. 95-190, § 14(a)(26), substituted "7621" for "7619".

Subsec. (e). Pub. L. 95-190, § 14(a)(27), substituted "an order under this section" for "such order".

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7413, 7420, 7604, 7607, 7621 of this title; title 15 sections 793, 798.

§ 7420. Noncompliance penalty

(a) Assessment and collection

(1)(A) Not later than 6 months after August 7, 1977, and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations requiring the assessment and collection of a noncompliance penalty against persons referred to in paragraph (2)(A).

(B)(i) Each State may develop and submit to the Administrator a plan for carrying out this section in such State. If the Administrator finds that the State plan meets the requirements of this section, he may delegate to such State any authority he has to carry out this section.

(ii) Notwithstanding a delegation to a State under clause (i), the Administrator may carry out this section in such State under the circumstances described in subsection (b)(2)(B) of this section.

(2)(A) Except as provided in subparagraph (B) or (C) of this paragraph, the State or the Administrator shall assess and collect a noncompliance penalty against every person who owns or operates—

(i) a major stationary source (other than a primary nonferrous smelter which has received a primary nonferrous smelter order under section 7419 of this title), which is not in compliance with any emission limitation, emission standard or compliance schedule under any applicable implementation plan (whether or not such source is subject to a Federal or State consent decree), or

(ii) a stationary source which is not in compliance with an emission limitation, emission standard, standard of performance, or other requirement established under section 7411 or 7412 of this title, or

(iii) any source referred to in clause (i) or (ii) (for which an extension, order, or suspension referred to in subparagraph (B), or Federal or State consent decree is in effect), or a primary nonferrous smelter which has received a primary nonferrous smelter order under section 7419 of this title which is not in compliance with any interim emission control requirement or schedule of compliance under such extension, order, suspension, or consent decree.

For purposes of subsection (d)(2) of this section, in the case of a penalty assessed with respect to a source referred to in clause (iii) of this subparagraph, the costs referred to in such subsection (d)(2) shall be the economic value of noncompliance with the interim emission control requirement or the remaining steps in the schedule of compliance referred to in such clause.

(B) Notwithstanding the requirements of subparagraph (A)(i) and (ii), the owner or operator of any source shall be exempted from the duty to pay a noncompliance penalty under such requirements with respect to that source if, in accordance with the procedures in subsection (b)(5) of this section, the owner or operator demonstrates that the failure of such source to comply with any such requirement is due solely to—

(i) a conversion by such source from the burning of petroleum products or natural gas, or both, as the permanent primary energy source to the burning of coal pursuant to an order under section 7413(d)(5) of this title or section 1857c-10 of this title (as in effect before August 7, 1977);

(ii) in the case of a coal-burning source granted an extension under the second sentence of section 1857c-10(c)(1) of this title (as in effect before August 7, 1977), a prohibition from using petroleum products or natural gas or both, by reason of an order under the provisions of section 792(a) and (b) of title 15 or under any legislation which amends or supersedes such provisions;

(iii) the use of innovative technology sanctioned by an enforcement order under section 7413(d)(4) of this title;

(iv) an inability to comply with any such requirement, for which inability the source has received an order under section 7413(d) of this title (or an order under section 7413 of this title issued before August 7, 1977) which has the effect of permitting a delay or violation of any requirement of this chapter (including a requirement of an applicable implementation plan) which inability results from reasons entirely beyond the control of the owner or operator of such source or of any entity controlling, controlled by, or under

common control with the owner or operator of such source; or

(v) the conditions by reason of which a temporary emergency suspension is authorized under section 7410(f) or (g) of this title.

An exemption under this subparagraph shall cease to be effective if the source fails to comply with the interim emission control requirements or schedules of compliance (including increments of progress) under any such extension, order, or suspension.

(C) The Administrator may, after notice and opportunity for public hearing, exempt any source from the requirements of this section with respect to a particular instance of noncompliance if he finds that such instance of noncompliance is de minimis in nature and in duration.

(b) Regulations

Regulations under subsection (a) of this section shall—

(1) permit the assessment and collection of such penalty by the State if the State has a delegation of authority in effect under subsection (a)(1)(B)(i) of this section;

(2) provide for the assessment and collection of such penalty by the Administrator, if—

(A) the State does not have a delegation of authority in effect under subsection (a)(1)(B)(i) of this section, or

(B) the State has such a delegation in effect but fails with respect to any particular person or source to assess or collect the penalty in accordance with the requirements of this section;

(3) require the States, or in the event the States fail to do so, the Administrator, to give a brief but reasonably specific notice of noncompliance under this section to each person referred to in subsection (a)(2)(A) of this section with respect to each source owned or operated by such person which is not in compliance as provided in such subsection, not later than July 1, 1979, or thirty days after the discovery of such noncompliance, whichever is later;

(4) require each person to whom notice is given under paragraph (3) to—

(A) calculate the amount of the penalty owed (determined in accordance with subsection (d)(2) of this section) and the schedule of payments (determined in accordance with subsection (d)(3) of this section) for each such source and, within forty-five days after the issuance of such notice or after the denial of a petition under subparagraph (B), to submit that calculation and proposed schedule, together with the information necessary for an independent verification thereof, to the State and to the Administrator, or

(B) submit a petition, within forty-five days after the issuance of such notice, challenging such notice of noncompliance or alleging entitlement to an exemption under subsection (a)(2)(B) of this section with respect to a particular source;

(5) require the Administrator to provide a hearing on the record (within the meaning of subchapter II of chapter 5 of title 5) and to make a decision on such petition (including findings of fact and conclusions of law) not later than ninety days after the receipt of any petition under paragraph (4)(B), unless the State agrees to provide a hearing which is substantially similar to such a hearing on the record and to make a decision on such petition (including such findings and conclusions) within such ninety-day period;

(6)(A) authorize the Administrator on his own initiative to review the decision of the State under paragraph (5) and disapprove it if it is not in accordance with the requirements of this section, and (B) require the Administrator to do so not later than sixty days after receipt of a petition under this subparagraph, notice, and public hearing and a showing by such petitioner that the State decision under paragraph (5) is not in accordance with the requirements of this section;

(7) require payment, in accordance with subsection (d) of this section, of the penalty by each person to whom notice of noncompliance is given under paragraph (3) with respect to each noncomplying source for which such notice is given unless there has been a final determination granting a petition under paragraph (4)(B) with respect to such source;

(8) authorize the State or the Administrator to adjust (and from time to time to readjust) the amount of the penalty assessment calculated or the payment schedule proposed by such owner or operator under paragraph (4), if the Administrator finds after notice and opportunity for a hearing on the record that the penalty or schedule does not meet the requirements of this section; and

(9) require a final adjustment of the penalty within 180 days after such source comes into compliance in accordance with subsection (d)(4) of this section.

In any case in which the State establishes a noncompliance penalty under this section, the State shall provide notice thereof to the Administrator. A noncompliance penalty established by a State under this section shall apply unless the Administrator, within ninety days after the date of receipt of notice of the State penalty assessment under this section, objects in writing to the amount of the penalty as less than would be required to comply with guidelines established by the Administrator. If the Administrator objects, he shall immediately establish a substitute noncompliance penalty applicable to such source.

(c) Contract to assist in determining amount of penalty assessment or payment schedule

If the owner or operator of any stationary source to whom a notice is issued under subsection (b)(3) of this section—

(1) does not submit a timely petition under subsection (b)(4)(B) of this section, or

(2) submits a petition under subsection (b)(4)(B) of this section which is denied, and

fails to submit a calculation of the penalty assessment, a schedule for payment, and the in-

formation necessary for independent verification thereof, the State (or the Administrator, as the case may be) may enter into a contract with any person who has no financial interest in the owner or operator of the source (or in any person controlling, controlled by or under common control with such source) to assist in determining the amount of the penalty assessment or payment schedule with respect to such source. The cost of carrying out such contract may be added to the penalty to be assessed against the owner or operator of such source.

(d) Payment

(1) All penalties assessed by the Administrator under this section shall be paid to the United States Treasury. All penalties assessed by the State under this section shall be paid to such State.

(2) The amount of the penalty which shall be assessed and collected with respect to any source under this section shall be equal to—

(A) the amount determined in accordance with regulations promulgated by the Administrator under subsection (a) of this section, which is no less than the economic value which a delay in compliance beyond July 1, 1979, may have for the owner of such source, including the quarterly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and any additional economic value which such a delay may have for the owner or operator of such source,

(B) the amount of any expenditure made by the owner or operator of that source during any such quarter for the purpose of bringing that source into, and maintaining compliance with, such requirement, to the extent that such expenditures have not been taken into account in the calculation of the penalty under subparagraph (A).

To the extent that any expenditure under subparagraph (B) made during any quarter is not subtracted for such quarter from the costs under subparagraph (A), such expenditure may be subtracted for any subsequent quarter from such costs. In no event shall the amount paid be less than the quarterly payment minus the amount attributed to actual cost of construction.

(3)(A) The assessed penalty required under this section shall be paid in quarterly installments for the period of covered noncompliance. All quarterly payments (determined without regard to any adjustment or any subtraction under paragraph (2)(B)) after the first payment shall be equal.

(B) The first payment shall be due on the date six months after the date of issuance of the notice of noncompliance under subsection (b)(3) of this section with respect to any source or on January 1, 1980, whichever is later. Such first payment shall be in the amount of the quarterly installment for the upcoming quarter, plus the amount owed for any preceding period within the period of covered noncompliance for such source.

(C) For the purpose of this section, the term "period of covered noncompliance" means the period which begins—

(i) two years after August 7, 1977, in the case of a source for which notice of noncompliance under subsection (b)(3) of this section is issued on or before the date two years after August 7, 1977, or

(ii) on the date of issuance of the notice of noncompliance under subsection (b)(3) of this section, in the case of a source for which such notice is issued after July 1, 1979,

and ending on the date on which such source comes into (or for the purpose of establishing the schedule of payments, is estimated to come into) compliance with such requirement.

(4) Upon making a determination that a source with respect to which a penalty has been paid under this section is in compliance and is maintaining compliance with the applicable requirement, the State (or the Administrator as the case may be) shall review the actual expenditures made by the owner or operator of such source for the purpose of attaining and maintaining compliance, and shall within 180 days after such source comes into compliance—

(A) provide reimbursement with interest (to be paid by the State or Secretary of the Treasury, as the case may be) at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any overpayment by such person, or

(B) assess and collect an additional payment with interest at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any underpayment by such person.

(5) Any person who fails to pay the amount of any penalty with respect to any source under this section on a timely basis shall be required to pay in addition a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties with respect to such source which are unpaid as of the beginning of such quarter.

(e) Judicial review

Any action pursuant to this section, including any objection of the Administrator under the last sentence of subsection (b) of this section, shall be considered a final action for purposes of judicial review of any penalty under section 7607 of this title.

(f) Other orders, payments, sanctions, or requirements

Any orders, payments, sanctions, or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this chapter, and shall in no way affect any civil or criminal enforcement proceedings brought under any provision of this chapter or State or local law.

(g) More stringent emission limitations or other requirements

In the case of any emission limitation or other requirement approved or promulgated by the Administrator under this chapter after August 7, 1977, which is more stringent than the emission limitation or requirement for the source in effect prior to such approval or promulgation, if any, or where there was no emission limitation or requirement approved or promulgated before August 7, 1977, the date for imposition of the non-compliance penalty under this section, shall be either July 1, 1979, or the date on which the source is required to be in full compliance with such emission limitation or requirement, whichever is later, but in no event later than three years after the approval or promulgation of such emission limitation or requirement.

(July 14, 1955, ch. 360, title I, § 120, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 118, 91 Stat. 714, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(28)-(38), 91 Stat. 1401.)

REFERENCES IN TEXT

Section 1857c-10 of this title (as in effect before August 7, 1977), referred to in subsec. (a)(2)(B)(i), was in the original "section 119 (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)", meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, (which was classified to section 1857c-10 of this title) as in effect prior to the enactment of Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 691, effective Aug. 7, 1977. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to subsec. (d)(5) of section 7413 of this title. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

Section 1857c-10(c)(1) of this title (as in effect before August 7, 1977), referred to in subsec. (a)(2)(B)(ii), was in the original "section 119(c)(1) (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977). See paragraph set out above for explanation of codification.

AMENDMENTS

1977—Subsec. (a)(2)(A). Pub. L. 95-190, § 14(a)(28), (29), in cls. (i) and (iii) added provisions relating to consent decrees wherever appearing therein.

Subsec. (a)(2)(B). Pub. L. 95-190, § 14(a)(30),(31), in cl. (i) added reference to section 7413(d)(5) of this title, and in cls. (i) and (ii) added provision relating to orders in effect under section 1857c-10 of this title before Aug. 7, 1977, wherever appearing therein.

Subsec. (b). Pub. L. 95-190, § 14(a)(34) to (36), in closing material added provisions relating to notice to the Administrator when a noncompliance penalty is established by a State, and substituted references to noncompliance for references to delayed compliance in two places, "source" for "facility", and "receipt of notice of the State penalty assessment" for "publication of the proposed penalty".

Subsec. (b)(2)(A). Pub. L. 95-190, § 14(a)(33), substituted "(a)(1)(B)(i)" for "(e)".

Subsec. (b)(8). Pub. L. 95-190, § 14(a)(32), substituted "(4)" for "(6)".

Subsec. (d)(2)(A). Pub. L. 95-190, § 14(a)(37), added provisions relating to inclusion of the economic value of a delay in compliance, and substituted "such a delay" for "a delay in compliance beyond July 1, 1979,".

Subsec. (e). Pub. L. 95-190, § 14(a)(38), substituted "subsection, shall" for "subsection shall".

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7413, 7419, 7425, 7607 of this title.

§ 7421. Consultation

In carrying out the requirements of this chapter requiring applicable implementation plans to contain—

(1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or

(2) any measure referred to—

(A) in part D (pertaining to nonattainment requirements), or

(B) in part C (pertaining to prevention of significant deterioration),

and in carrying out the requirements of section 7413(d) of this title (relating to certain enforcement orders), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after August 7, 1977, as part of such plan. Such process shall be in accordance with regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than 6 months after August 7, 1977. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this section.

(July 14, 1955, ch. 360, title I, § 121, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 119, 91 Stat. 719.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7410 of this title; title 15 sections 1410, 2002.

§ 7422. Listing of certain unregulated pollutants

(a) Radioactive pollutants, cadmium, arsenic, and polycyclic organic matter

Not later than one year after August 7, 1977 (two years for radioactive pollutants) and after notice and opportunity for public hearing, the Administrator shall review all available relevant information and determine whether or not emissions of radioactive pollutants (including source material, special nuclear material, and byproduct material), cadmium, arsenic and polycyclic organic matter into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination with respect to any such substance, he shall simultaneously with such determination include such substance in the list published under section 7408(a)(1) or 7412(b)(1)(A) of this title (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 7411(b)(1)(A) of this title, or take any combination of such actions.

(b) Revision authority

Nothing in subsection (a) of this section shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) of this section with respect to any substance (whether or not enumerated in subsection (a) of this section).

(c) Consultation with Nuclear Regulatory Commission; interagency agreement; notice and hearing

(1) Before listing any source material, special nuclear, or byproduct material (or component or derivative thereof) as provided in subsection (a) of this section, the Administrator shall consult with the Nuclear Regulatory Commission.

(2) Not later than six months after listing any such material (or component or derivative thereof) the Administrator and the Nuclear Regulatory Commission shall enter into an interagency agreement with respect to those sources or facilities which are under the jurisdiction of the Commission. This agreement shall, to the maximum extent practicable consistent with this chapter, minimize duplication of effort and conserve administrative resources in the establishment, implementation, and enforcement of emission limitations, standards of performance, and other requirements and authorities (substantive and procedural) under this chapter respecting the emission of such material (or component or derivative thereof) from such sources or facilities.

(3) In case of any standard or emission limitation promulgated by the Administrator, under this chapter or by any State (or the Administrator) under any applicable implementation plan under this chapter, if the Nuclear Regulatory Commission determines, after notice and opportunity for public hearing that the application of such standard or limitation to a source or facility within the jurisdiction of the Commission would endanger public health or safety, such standard or limitation shall not apply to such facilities or sources unless the President determines otherwise within ninety days from the date of such finding.

(July 14, 1955, ch. 360, title I, § 122, as added Aug. 7, 1977, Pub. L. 95-95, title § 120(a), 91 Stat. 720.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

STUDY BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY

Section 120(b) of Pub. L. 95-95 provided that: "The Administrator of the Environmental Protection Agency shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, radioactive pollutants, cadmium, arsenic, and polycyclic organic matter which are present or may reasonably be anticipated to occur in the ambient air. Such study shall include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, cadmium, arsenic, and polycyclic organic matter."

§ 7423. Stack heights

(a) Heights in excess of good engineering practice; other dispersion techniques

The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under this subchapter shall not be affected in any manner by—

(1) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or

(2) any other dispersion technique.

The preceding sentence shall not apply with respect to stack heights in existence before December 31, 1970, or dispersion techniques implemented before such date. In establishing an emission limitation for coal-fired steam electric generating units which are subject to the provisions of section 7418 of this title and which commenced operation before July 1, 1957, the effect of the entire stack height of stacks for which a construction contract was awarded before February 8, 1974, may be taken into account.

(b) Dispersion technique

For the purpose of this section, the term "dispersion technique" includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

(c) Regulations; good engineering practice

Not later than six months after August 7, 1977, the Administrator, shall after notice and opportunity for public hearing, promulgate regulations to carry out this section. For purposes of this section, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from

the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this section such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source.

(July 14, 1955, ch. 360, title I, § 123, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 121, 91 Stat. 721.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7424. Assurance of adequacy of State plans

(a) State review of implementation plans which relate to major fuel burning sources

As expeditiously as practicable but not later than one year after August 7, 1977, each State shall review the provisions of its implementation plan which relate to major fuel burning sources and shall determine—

(1) the extent to which compliance with requirements of such plan is dependent upon the use by major fuel burning stationary sources of petroleum products or natural gas,

(2) the extent to which such plan may reasonably be anticipated to be inadequate to meet the requirements of this chapter in such State on a reliable and long-term basis by reason of its dependence upon the use of such fuels, and

(3) the extent to which compliance with the requirements of such plan is dependent upon use of coal or coal derivatives which is not locally or regionally available.

Each State shall submit the results of its review and its determination under this paragraph to the Administrator promptly upon completion thereof.

(b) Plan revision

(1) Not later than eighteen months after August 7, 1977, the Administrator shall review the submissions of the States under subsection (a) of this section and shall require each State to revise its plan if, in the judgment of the Administrator, such plan revision is necessary to assure that such plan will be adequate to assure compliance with the requirements of this chapter in such State on a reliable and long-term basis, taking into account the actual or potential prohibitions on use of petroleum products or natural gas, or both, under any other authority of law.

(2) Before requiring a plan revision under this subsection, with respect to any State the Administrator shall take into account the report of the review conducted by such State under paragraph (1) and shall consult with the Governor of the State respecting such required revision.

(July 14, 1955, ch. 360, title I, § 124, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 122, 91 Stat. 722.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7425. Measures to prevent economic disruption or unemployment

(a) Determination that action is necessary

After notice and opportunity for a public hearing—

(1) the Governor of any State in which a major fuel burning stationary source referred to in this subsection (or class or category thereof) is located,

(2) the Administrator, or

(3) the President (or his designee),

may determine that action under subsection (b) of this section is necessary to prevent or minimize significant local or regional economic disruption or unemployment which would otherwise result from use by such source (or class or category) of—

(A) coal or coal derivatives other than locally or regionally available coal,

(B) petroleum products,

(C) natural gas, or

(D) any combination of fuels referred to in subparagraphs (A) through (C),

to comply with the requirements of a State implementation plan.

(b) Use of locally or regionally available coal or coal derivatives to comply with implementation plan requirements

Upon a determination under subsection (a) of this section—

(1) such Governor, with the written consent of the President or his designee,

(2) the President's designee with the written consent of such Governor, or

(3) the President

may by rule or order prohibit any such major fuel burning stationary source (or class or category thereof) from using fuels other than locally or regionally available coal or coal derivatives to comply with implementation plan requirements. In taking any action under this subsection, the Governor, the President, or the President's designee as the case may be, shall take into account, the final cost to the consumer of such an action.

(c) Contracts; schedules

The Governor, in the case of action under subsection (b)(1) of this section, or the Administrator, in the case of an action under subsection (b)(2) or (3) of this section shall, by rule or order, require each source to which such action applies to—

(1) enter into long-term contracts of at least ten years in duration (except as the President or his designee may otherwise permit or require by rule or order for good cause) for supplies of regionally available coal or coal derivatives,

(2) enter into contracts to acquire any additional means of emission limitation which the Administrator or the State determines may be necessary to comply with the requirements of this chapter while using such coal or coal derivatives as fuel, and

(3) comply with such schedules (including increments of progress), timetables and other requirements as may be necessary to assure compliance with the requirements of this chapter.

Requirements under this subsection shall be established simultaneously with, and as a condition of, any action under subsection (b) of this section.

(d) Existing or new major fuel burning stationary sources

This section applies only to existing or new major fuel burning stationary sources—

(1) which have the design capacity to produce 250,000,000 Btu's per hour (or its equivalent), as determined by the Administrator, and

(2) which are not in compliance with the requirements of an applicable implementation plan or which are prohibited from burning oil or natural gas, or both, under any other authority of law.

(e) Actions not to be deemed modifications of major fuel burning stationary sources

Except as may otherwise be provided by rule by the State or the Administrator for good cause, any action required to be taken by a major fuel burning stationary source under this section shall not be deemed to constitute a modification for purposes of section 7411(a)(2) and (4) of this title.

(f) Treatment of prohibitions, rules, or orders as requirements or parts of plans under other provisions

For purposes of sections 7413 and 7420 of this title a prohibition under subsection (b) of this section, and a corresponding rule or order under subsection (c) of this section, shall be treated as a requirement of section 7413 of this title. For purposes of any plan (or portion thereof) promulgated under section 7410(c) of this title, any rule or order under subsection (c) of this section, corresponding to a prohibition under subsection (b) of this section, shall be treated as a part of such plan. For purposes of section 7413 of this title, a prohibition under subsection (b) of this section, applicable to any source, and a corresponding rule or order under subsection (c) of this section, shall be treated as part of the applicable implementation plan for the State in which subject source is located.

(g) Delegation of Presidential authority

The President may delegate his authority under this section to an officer or employee of the United States designated by him on a case-by-case basis or in any other manner he deems suitable.

(h) Locally or regionally available coal or coal derivatives

For the purpose of this section the term "locally or regionally available coal or coal derivatives" means coal or coal derivatives which is, or can in the judgment of the State or the Administrator feasibly be, mined or produced in the local or regional area (as determined by the Administrator) in which the major fuel burning stationary source is located.

(July 14, 1955, ch. 360, title I, § 125, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 122, 91 Stat. 722.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 2003.

§ 7426. Interstate pollution abatement

(a) Written notice to all nearby States

Each applicable implementation plan shall—

(1) require each major proposed new (or modified) source—

(A) subject to part C (relating to significant deterioration of air quality) or

(B) which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification),

to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

(2) identify all major existing stationary sources which may have the impact described in paragraph (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources not later than three months after August 7, 1977.

(b) Petition for finding that major sources emit or would emit prohibited air pollutants

Any State or political subdivision may petition the Administrator for a finding that any major source emits or would emit any air pollutant in violation of the prohibition of section 7410(a)(2)(E)(i) of this title. Within 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition.

(c) Violations; allowable continued operation

Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State—

(1) for any major proposed new (or modified) source with respect to which a finding has been made under subsection (b) of this section to be constructed or to operate in violation of the prohibition of section 7410(a)(2)(E)(i) of this title, or

(2) for any major existing source to operate more than three months after such finding has been made with respect to it.

The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirements contained in section 7410(a)(2)(E)(i) of this title as expeditiously as practicable, but in no case later than three years after the date of such finding. Nothing in the preceding sentence shall be construed to preclude any such source from being eligible for an enforcement order under section 7413(d) of this title after the expiration of such period during which the Administrator has permitted continuous operation.

(July 14, 1955, ch. 360, title I, § 126, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 123, 91 Stat. 724, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(39), 91 Stat. 1401.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-190 substituted "(relating to significant deterioration of air quality)" for ", relating to significant deterioration of air quality,".

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7607 of this title.

§ 7427. Public notification

(a) Warning signs; television, radio, or press notices or information

Each State plan shall contain measures which will be effective to notify the public during any calendar [1] on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warning signs on interstate highway access points to metropolitan areas or television, radio, or press notices or information.

[1] So in original. Probably should read "calendar year".

(b) Grants

The Administrator is authorized to make grants to States to assist in carrying out the requirements of subsection (a) of this section.

(July 14, 1955, ch. 360, title I, § 127, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 124, 91 Stat. 725.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7626 of this title.

§ 7428. State boards

(a)[1] Not later than the date one year after August 7, 1977, each applicable implementation plan shall contain requirements that—

(1) any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this chapter, and

(2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of paragraph (1) and (2), and the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.

(July 14, 1955, ch. 360, title I, § 128, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 125, 91 Stat. 725.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7410 of this title.

PART B—OZONE PROTECTION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 7604, 7607, 7413, 7617, 7626 of this title.

§ 7450. Congressional declaration of purpose

The purposes of this part are (1) to provide for a better understanding of the effects of human actions on the stratosphere, especially the ozone in the stratosphere, (2) to provide for a better understanding of the effects of changes in the stratosphere, especially the ozone in the stratosphere on the public health

[1] So in original. Section enacted without subsec. (b).

and welfare, (3) to provide information on the progress of regulation of activities which may reasonably be anticipated to affect the ozone in the stratosphere in such a way as to cause or contribute to endangerment of the public health or welfare; and (4) to provide information on the need for additional legislation in this area, if any.

(July 14, 1955, ch. 360, title I, § 150, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 726.)

EFFECTIVE DATE

Part effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7451. Congressional findings

(a)[1] The Congress finds, on the basis of presently available information, that—

(1) halocarbon compounds introduced into the environment potentially threaten to reduce the concentration of ozone in the stratosphere;

(2) ozone reduction will lead to increased incidence of solar ultraviolet radiation at the surface of the Earth;

(3) increased incidence of solar ultraviolet radiation is likely to cause increased rates of disease in humans (including increased rates of skin cancer), threaten food crops, and otherwise damage the natural environment;

(4) other substances, practices, processes, and activities may affect the ozone in the stratosphere, and should be investigated to give early warning of any potential problem and to develop the basis for possible future regulatory action; and

(5) there is some authority under existing law, to regulate certain substances, practices, processes, and activities which may affect the ozone in the stratosphere.

(July 14, 1955, ch. 360, title I, § 151, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 726.)

§ 7452. Definitions

For the purposes of this part—

(1) the term "halocarbon" means the chemical compounds $CFCl_3$ and CF_2Cl_2 and such other halogenated compounds as the Administrator determines may reasonably be anticipated to contribute to reductions in the concentration of ozone in the stratosphere;

(2) the term "stratosphere" means that part of the atmosphere above the tropopause.

(July 14, 1955, ch. 360, title I, § 152, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 726.)

REFERENCES IN TEXT

This part, referred to in text, was in the original, "this subtitle" and has been translated as "this part" to reflect the probable intent of Congress.

[1] So in original. Section enacted without a subsec. (b).

§ 7453. Studies by Environmental Protection Agency

(a) Study of cumulative effect of all substances, practices, processes, and activities on the stratosphere

The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere. The study shall include an analysis of the independent effects on the stratosphere especially such ozone in the stratosphere of—

(1) the release into the ambient air of halocarbons,

(2) the release into the ambient air of other sources of chlorine,

(3) the uses of bromine compounds, and

(4) emissions of aircraft and aircraft propulsion systems employed by operational and experimental aircraft.

The study shall also include such physical, chemical, atmospheric, biomedical, or other research and monitoring as may be necessary to ascertain (A) any direct or indirect effects upon the public health and welfare of changes in the stratosphere, especially ozone in the stratosphere, and (B) the probable causes of changes in the stratosphere, especially the ozone in the stratosphere.

(b) Research

The Administrator shall undertake research on—

(1) methods to recover and recycle substances which directly or indirectly affect the stratosphere, especially ozone in the stratosphere,

(2) methods of preventing the escape of such substances,

(3) safe substitutes for such substances, and

(4) other methods to regulate substances, practices, processes, and activities which may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere.

(c) Cooperation and assistance in studies and research

(1) The studies and research conducted under this section may be undertaken with such cooperation and assistance from universities and private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized and encouraged to provide assistance to the Administrator in carrying out the requirements of this section, including (notwithstanding any other provision of law) any services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

(2) The Administrator shall encourage the cooperation and assistance of other nations in carrying out the studies and research under this section. The Administrator is authorized to cooperate with and support similar research efforts of other nations.

(d) Study by National Academy of Sciences

(1) The Administrator shall undertake to contract with the National Academy of Sciences to study the state of knowledge and the adequacy of research efforts to understand (A) the effects of all substances, practices, processes, and

activities which may affect the stratosphere, especially ozone in the stratosphere; (B) the health and welfare effects of modifications of the stratosphere, especially ozone in the stratosphere; and (C) methods of control of such substances, practices, processes, and activities including alternatives, costs, feasibility, and timing. The Academy shall make a report of its findings by January 1, 1978.

(2) The Administrator shall make available to the Academy such information in the Administrator's possession as is needed for the purposes of the study provided for in this subsection.

(e) Study by Secretary of Labor

The Secretary of Labor shall study and transmit a report to the Administrator and the Congress not later than six months after August 7, 1977, with respect to the losses and gains to industry and employment which could result from the elimination of the use of halocarbons in aerosol containers and for other purposes. Such report shall include recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom.

(f) Coordination in carrying out research and studies; Coordinating Committee

(1) The Administrator shall establish and act as Chairman of a Coordinating Committee for the purpose of insuring coordination of the efforts of other Federal agencies carrying out research and studies related to or supportive of the research provided for in subsections (a) and (b) of this section and section 7454 of this title.

(2) Members of the Coordinating Committee shall include the appropriate official responsible for the relevant research efforts of each of the following agencies:

(A) the National Oceanic and Atmospheric Administration,

(B) the National Aeronautics and Space Administration,

(C) the Federal Aviation Administration,

(D) the Department of Agriculture,

(E) the National Cancer Institute,

(F) the National Institute of Environmental Health Sciences,

(G) the National Science Foundation, and the appropriate officials responsible for the relevant research efforts of such other agencies carrying out related efforts as the Chairman shall designate. A representative of the Department of State shall sit on the Coordinating Committee to encourage and facilitate international coordination.

(3) The Coordinating Committee shall review and comment on plans for, and the execution and results of, pertinent research and studies. For this purpose, the agencies named in or designated under paragraph (2) of this subsection shall make appropriate and timely reports to the Coordinating Committee on plans for and the execution and results of such research and studies.

(4) The Chairman may request a report from any Federal Agency for the purpose of determining if that agency should sit on the Coordinating Committee.

(g) Reports to Congressional committees

Not later than January 1, 1978, and biennially thereafter, the Administrator shall report to the appropriate committees of the House and the Senate, the results of the studies and research conducted under this section and the results of related research and studies conducted by other Federal agencies.

(July 14, 1955, ch. 360, title I, § 153, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 726.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7457 of this title.

§ 7454. Research and monitoring by other agencies

(a) National Oceanic and Atmospheric Administration

The Administrator of the National Oceanic and Atmospheric Administration shall establish a continuing program of research and monitoring of the stratosphere for the purpose of early detection of changes in the stratosphere and climatic effects of such changes. Such Administrator shall on or before January 1, 1978, and biennially thereafter, transmit such report to the Administrator and the Congress on the findings of such research and monitoring. Such report shall contain any appropriate recommendations for legislation or regulation (or both).

(b) National Aeronautics and Space Administration

The National Aeronautics and Space Administration shall, pursuant to its authority under title IV of the National Aeronautics and Space Act of 1958 [42 U.S.C. 2481 et seq.] continue programs of research, technology, and monitoring of the stratosphere for the purpose of understanding the physics and chemistry of the stratosphere and for the early detection of potentially harmful changes in the ozone in the stratosphere. Such Administration shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of the programs authorized in this subsection, together with any appropriate recommendations for legislation or regulation (or both).

(c) National Science Foundation

The Director of the National Science Foundation shall encourage and support ongoing stratospheric research programs and continuing research programs that will increase scientific knowledge of the effects of changes in the ozone layer in the stratosphere upon living organisms and ecosystems. Such Director shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for legislation or regulation (or both).

(d) Department of Agriculture

The Secretary of Agriculture shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon animals, crops, and other plant life. Such

Secretary shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of such programs together with any appropriate recommendations for legislation or regulation (or both).

(e) Department of Health, Education, and Welfare

The Secretary of Health, Education, and Welfare shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon human health. Such Secretary shall transmit reports by January 1, 1978, and biennially thereafter, to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for legislation or regulation (or both).

(f) Cooperation and assistance

In carrying out subsections (a) through (e) of this section, the agencies involved (1) shall enlist and encourage cooperation and assistance from other Federal agencies, universities, and private industry, and (2) shall solicit the views of the Administrator with regard to plans for the research involved so that any such research will, if regulatory action by the Administrator is indicated, provide the preliminary information base for such action.

(July 14, 1955, ch. 360, title I, § 154, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 728.)

REFERENCES IN TEXT

The National Aeronautics and Space Act of 1958, referred to in subsec. (b), is Pub. L. 85-568, July 29, 1958; 72 Stat. 426, as amended. Title IV of the National Aeronautics and Space Act of 1958 is classified generally to subchapter III (§ 2481 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7453, 7457 of this title.

§ 7455. Progress of regulation

The Administrator shall provide an interim report to the Congress by January 1, 1978, shall provide a final report within two years after August 7, 1977, and shall provide follow-up reports annually thereafter on the actions taken by the Environmental Protection Agency and all other Federal agencies to regulate sources of halocarbon emissions, the results of such regulations in protecting the ozone layer, and the need for additional regulatory action, if any. The reports under this section shall also include recommendations for the control of substances, practices, processes, and activities other than those involving halocarbons, which are found to affect the ozone in the stratosphere and which may cause or contribute to harmful effects on public health or welfare.

(July 14, 1955, ch. 360, title I, § 155, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 729.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7457 of this title.

§ 7456. International cooperation

The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this part, and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States. For these purposes the President through the Secretary of State and the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements.

(July 14, 1955, ch. 360, title I, § 156, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 729.)

§ 7457. Regulations

(a) Endangerment of public health or welfare prior to submission of final report

If at any time prior to the submission of the final report referred to in section 7455 of this title in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, the Administrator shall promptly promulgate regulations respecting the control of such substance, practice, process, or activity, and shall simultaneously submit notice of the promulgation of such regulations to the Congress.

(b) Proposed regulations; final form of regulations; revision

Upon submission of the final report referred to in section 7455 of this title, and after consideration of the research and study under sections 7453 and 7454 of this title and, consultation with appropriate Federal agencies and scientific entities, the Administrator shall propose regulations for the control of any substance, practice, process, or activity (or any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the feasibility and the costs of achieving such control. Such regulations may exempt medical use products for which the Administrator determines there is no suitable substitute. Not later than three months after proposal of such regulations the Administrator shall promulgate such regulations in final form. From time to time, and under the same procedures, the Administrator may revise any of the regulations submitted under this subsection.

(July 14, 1955, ch. 360, title I, § 157, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 729.)

§ 7458. Other provisions unaffected

Nothing in this part shall be construed to alter or affect the authority of the Administrator under section 7603 of this title (relating to emergency powers), under section 7571 of this title (relating to aircraft emission standards), or under any other provision of this chapter or to affect the authority of any other department, agency, or instrumentality of the United States under any other provision of law to promulgate or enforce any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere. In the case of any proposed rule respecting ozone in the stratosphere which has been published under the Toxic Substances Control Act [15 U.S.C. 2601 et seq.] prior to August 7, 1977, notwithstanding section 9(b) of such Act [15 U.S.C. 2608(b)], nothing in this part shall be construed to prohibit or restrict the Administrator from taking any action under the Toxic Substances Control Act respecting the promulgation or enforcement of such rule.

(July 14, 1955, ch. 360, title I, § 158, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 730.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in text, is Pub. L. 94-469, Oct. 11, 1976, 90 Stat. 2003, which is classified generally to chapter 53 (§ 2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

§ 7459. State authority

(a) Efforts of States or political subdivisions to protect the stratosphere

Nothing in this part shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere except as otherwise provided in subsection (b) of this section.

(b) Identical requirements of State and Federal regulations

If a regulation of any substance, practice, process, or activity is in effect under this part in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of any such substance, practice, process, or activity to prevent or abate such risk, unless the requirement of the State or political subdivision is identical to the requirement of such regulation. The preceding sentence shall not apply with respect to any law or regulation of any State or political subdivision controlling the use of halocarbons as propellants in aerosol spray containers.

(July 14, 1955, ch. 360, title I, § 159, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 126, 91 Stat. 730.)

PART C—PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 7407, 7410, 7421, 7426, 7521, 7604, 7607, 7616, 7617, 7620, 7623 of this title.

SUBPART I—CLEAN AIR

§ 7470. Congressional declaration of purpose

The purposes of this part are as follows:

(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipate[1] to occur from air pollution or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air)[2], notwithstanding attainment and maintenance of all national ambient air quality standards;

(2) to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value;

(3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources;

(4) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and

(5) to assure that any decision to permit increased air pollution in any area to which this section applies is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

(July 14, 1955, ch. 360, title I, § 160, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 731.)

EFFECTIVE DATE

Subpart effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

GUIDANCE DOCUMENT

Section 127(c) of Pub. L. 95-95 provided that: "Not later than one year after the date of enactment of this Act [Aug. 7, 1977], the Administrator shall publish a guidance document to assist the States in carrying out their functions under part C of title I of the Clean Air Act (relating to prevention of significant deterioration of air quality) [this part] with respect to pollutants, other than sulfur oxides and particulates, for which national ambient air quality standards are promulgated. Such guidance document shall include recommended strategies for controlling photochemical oxidants on a regional or multistate basis for the purpose of im-

[1] So in original. Probably should read "anticipated"

[2] So in original. Section was enacted without an opening parenthesis.

plementing part C [this part] and section 110 of such Act [section 7410 of this title]."

STUDY AND REPORT ON PROGRESS MADE IN PROGRAM RELATING TO SIGNIFICANT DETERIORATION OF AIR QUALITY

Section 127(d) of Pub. L. 95-95 provided that: "Not later than two years after the date of enactment of this Act [Aug. 7, 1977], the Administrator shall complete a study and report to the Congress on the progress made in carrying out part C of title I of the Clean Air Act (relating to significant deterioration of air quality) [this part] and the problems associated with carrying out such section, including recommendations for legislative changes necessary to implement strategies for controlling photochemical oxidants on a regional or multistate basis."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7476 of this title.

§ 7471. Plan requirements

In accordance with the policy of section 7401(b)(1) of this title, each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under this part, to prevent significant deterioration of air quality in each region (or portion thereof) identified pursuant to section 7407(d)(1)(D) or (E) of this title.

(July 14, 1955, ch. 360, title I, § 161, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 731.)

§ 7472. Initial classifications

(a) Areas designated as class I

Upon the enactment of this part, all—

(1) international parks,

(2) national wilderness areas which exceed 5,000 acres in size,

(3) national memorial parks which exceed 5,000 acres in size, and

(4) national parks which exceed six thousand acres in size,

and which are in existence on August 7, 1977, shall be class I areas and may not be redesignated. All areas which were redesignated as class I under regulations promulgated before August 7, 1977, shall be class I areas which may be redesignated as provided in this part.

(b) Areas designated as class II

All areas in such State identified pursuant to section 7407(d)(1)(D) or (E) of this title which are not established as class I under subsection (a) of this section shall be class II areas unless redesignated under section 7474 of this title.

(July 14, 1955, ch. 360, title I, § 162, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 731, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(40), 91 Stat. 1401.)

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-190 added a comma following "size".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7474, 7478 of this title.

§ 7473. Increments and ceilings

(a) Sulfur oxide and particulate matter; requirement that maximum allowable increases and maximum allowable concentrations not be exceeded

In the case of sulfur oxide and particulate matter, each applicable implementation plan shall contain measures assuring that maximum allowable increases over baseline concentrations of, and maximum allowable concentrations of, such pollutant shall not be exceeded. In the case of any maximum allowable increase (except an allowable increase specified under section 7475(d)(2)(C)(iv) of this title) for a pollutant based on concentrations permitted under national ambient air quality standards for any period other than an annual period, such regulations shall permit such maximum allowable increase to be exceeded during one such period per year.

(b) Maximum allowable increases in concentrations over baseline concentrations

(1) For any class I area, the maximum allowable increase in concentrations of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

Pollutant	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	5
Twenty-four-hour maximum	10
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four-hour maximum	5
Three-hour maximum	25

(2) For any class II area, the maximum allowable increase in concentrations of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

Pollutant	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	19
Twenty-four-hour maximum	37
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four-hour maximum	91
Three-hour maximum	512

(3) For any class III area, the maximum allowable increase in concentrations of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

Pollutant	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	37
Twenty-four-hour maximum	75
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four-hour maximum	182
Three-hour maximum	700

(4) The maximum allowable concentration of any air pollutant in any area to which this part applies shall not exceed a concentration for such pollutant for each period of exposure equal to—

(A) the concentration permitted under the national secondary ambient air quality standard, or

(B) the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lowest for such pollutant for such period of exposure.

(c) Orders or rules for determining compliance with maximum allowable increases in ambient concentrations of air pollutants

(1) In the case of any State which has a plan approved by the Administrator for purposes of carrying out this part, the Governor of such State may, after notice and opportunity for public hearing, issue orders or promulgate rules providing that for purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:

(A) concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under the provisions of sections 792(a) and (b) of title 15 (or any subsequent legislation which supersedes such provisions) over the emissions from such sources before the effective date of such order.

(B) the concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from using natural gas by reason of a natural gas curtailment pursuant to a natural gas curtailment plan in effect pursuant to the Federal Power Act [16 U.S.C. 791a et seq.] over the emissions from such sources before the effective date of such plan,

(C) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities, and

(D) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration determined in accordance with section 7479(4) of this title.

(2) No action taken with respect to a source under paragraph (1)(A) or (1)(B) shall apply more than five years after the effective date of the order referred to in paragraph (1)(A) or the plan referred to in paragraph (1)(B), whichever is applicable. If both such order and plan are applicable, no such action shall apply more than five years after the later of such effective dates.

(3) No action under this subsection shall take effect unless the Governor submits the order or rule providing for such exclusion to the Administrator and the Administrator determines that such order or rule is in compliance with the provisions of this subsection.

(July 14, 1955, ch. 360, title I, § 163, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 732, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(41), 91 Stat. 1401.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (c)(1)(B), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-190 added "section" preceding "7475", which for purposes of codification had already been added thereby requiring no further change in text.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7476, 7478 of this title.

§ 7474. Area redesignation

(a) Authority of States to redesignate areas

Except as otherwise provided under subsection (c) of this section, a State may redesignate such areas as it deems appropriate as class I areas. The following areas may be redesignated only as class I or II:

(1) an area which exceeds ten thousand acres in size and is a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore, and

(2) a national park or national wilderness area established after August 7, 1977, which exceeds ten thousand acres in size.

Any area (other than an area referred to in paragraph (1) or (2) or an area established as class I under the first sentence of section 7472(a) of this title) may be redesignated by the State as class III if—

(A) such redesignation has been specifically approved by the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area so redesignated enact legislation (including for such units of local government resolutions where appropriate) concurring in the State's redesignation;

(B) such redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase or maximum allowable concentration permitted under the classification of any other area; and

(C) such redesignation otherwise meets the requirements of this part.

Subparagraph (A) of this paragraph shall not apply to area redesignations by Indian tribes.

(b) Notice and hearing; notice to Federal land manager; written comments and recommendations; regulations; disapproval of redesignation

(1)(A) Prior to redesignation of any area under this part, notice shall be afforded and public hearings shall be conducted in areas proposed to be redesignated and in areas which may be affected by the proposed redesignation. Prior to any such public hearing a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of

the proposed redesignation shall be prepared and made available for public inspection and prior to any such redesignation, the description and analysis of such effects shall be reviewed and examined by the redesignating authorities.

(B) Prior to the issuance of notice under subparagraph (A) respecting the redesignation of any area under this subsection, if such area includes any Federal lands, the State shall provide written notice to the appropriate Federal land manager and afford adequate opportunity (but not in excess of 60 days) to confer with the State respecting the intended notice of redesignation and to submit written comments and recommendations with respect to such intended notice of redesignation. In redesignating any area under this section with respect to which any Federal land manager has submitted written comments and recommendations, the State shall publish a list of any inconsistency between such redesignation and such recommendations and an explanation of such inconsistency (together with the reasons for making such redesignation against the recommendation of the Federal land manager).

(C) The Administrator shall promulgate regulations not later than six months after August 7, 1977, to assure, insofar as practicable, that prior to any public hearing on redesignation of any area, there shall be available for public inspection any specific plans for any new or modified major emitting facility which may be permitted to be constructed and operated only if the area in question is designated or redesignated as class III.

(2) The Administrator may disapprove the redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this section or is inconsistent with the requirements of section 7472(a) of this title or of subsection (a) of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(c) Indian reservations

Lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated only by the appropriate Indian governing body. Such Indian governing body shall be subject in all respect to the provisions of subsection (e) of this section.

(d) Review of national monuments, primitive areas, and national preserves

The Federal Land Manager shall review all national monuments, primitive areas, and national preserves, and shall recommend any appropriate areas for redesignation as class I where air quality related values are important attributes of the area. The Federal Land Manager shall report such recommendations, within[1] supporting analysis, to the Congress and the affected States within one year after August 7, 1977. The Federal Land Manager shall consult with the appropriate States before making such recommendations.

[1] So in original. Probably should read "with".

(e) Resolution of disputes between State and Indian Tribes

If any State affected by the redesignation of an area by an Indian tribe or any Indian tribe affected by the redesignation of an area by a State disagrees with such redesignation of any area, or if a permit is proposed to be issued for any new major emitting facility proposed for construction in any State which the Governor of an affected State or governing body of an affected Indian tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected State or tribal reservation, the Governor or Indian ruling body may request the Administrator to enter into negotiations with the parties involved to resolve such dispute. If requested by any State or Indian tribe involved, the Administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands involved. If the parties involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable plan and shall be enforceable as part of such plan. In resolving such disputes relating to area redesignation, the Administrator shall consider the extent to which the lands involved are of sufficient size to allow effective air quality management or have air quality related values of such an area.

(July 14, 1955, ch. 360, title I, § 164, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 733, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(42), (43), 91 Stat. 1402.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-190, § 14(a)(42), added "or is inconsistent with the requirements of section 7472(a) of this title or of subsection (a) of this section." following "this section".

Subsec. (e). Pub. L. 95-190, § 14(a)(43), added "an" following "If any State affected by the redesignation of".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7472, 7478 of this title.

§ 7475. Preconstruction requirements

(a) Major emitting facilities on which construction is commenced

No major emitting facility on which construction is commenced after August 7, 1977, may be constructed in any area to which this part applies unless—

(1) a permit has been issued for such proposed facility in accordance with this part setting forth emission limitations for such facility which conform to the requirements of this part;

(2) the proposed permit has been subject to a review in accordance with this section, the required analysis has been conducted in accordance with regulations promulgated by the Administrator, and a public hearing has been held with opportunity for interested persons including representatives of the Administrator to appear and submit written or

oral presentations on the air quality impact of such source, alternatives thereto, control technology requirements, and other appropriate considerations;

(3) the owner or operator of such facility demonstrates, as required pursuant to section 7410(j) of this title, that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of any (A) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this part applies more than one time per year, (B) national ambient air quality standard in any air quality control region, or (C) any other applicable emission standard or standard of performance under this chapter;

(4) the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this chapter emitted from, or which results from, such facility;

(5) the provisions of subsection (d) of this section with respect to protection of class I areas have been complied with for such facility;

(6) there has been an analysis of any air quality impacts projected for the area as a result of growth associated with such facility;

(7) the person who owns or operates, or proposes to own or operate, a major emitting facility for which a permit is required under this part agrees to conduct such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any area which may be affected by emissions from such source; and

(8) in the case of a source which proposes to construct in a class III area, emissions from which would cause or contribute to exceeding the maximum allowable increments applicable in a class II area and where no standard under section 7411 of this title has been promulgated subsequent to August 7, 1977, for such source category, the Administrator has approved the determination of best available technology as set forth in the permit.

(b) Exception

The demonstration pertaining to maximum allowable increases required under subsection (a)(3) of this section shall not apply to maximum allowable increases for class II areas in the case of an expansion or modification of a major emitting facility which is in existence on August 7, 1977, whose allowable emissions of air pollutants, after compliance with subsection (a)(4) of this section, will be less than fifty tons per year and for which the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur oxides will not cause or contribute to ambient air quality levels in excess of the national secondary ambient air quality standard for either of such pollutants.

(c) Permit applications

Any completed permit application under section 7410 of this title for a major emitting facility in any area to which this part applies shall be granted or denied not later than one year after the date of filing of such completed application.

(d) Action taken on permit applications; notice; adverse impact on air quality related values; variance; emission limitations

(1) Each State shall transmit to the Administrator a copy of each permit application relating to a major emitting facility received by such State and provide notice to the Administrator of every action related to the consideration of such permit.

(2)(A) The Administrator shall provide notice of the permit application to the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within a class I area which may be affected by emissions from the proposed facility.

(B) The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands within a class I area and to consider, in consultation with the Administrator, whether a proposed major emitting facility will have an adverse impact on such values.

(C)(i) In any case where the Federal official charged with direct responsibility for management of any lands within a class I area or the Federal Land Manager of such lands, or the Administrator, or the Governor of an adjacent State containing such a class I area files a notice alleging that emissions from a proposed major emitting facility may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur dioxide will not cause or contribute to concentrations which exceed the maximum allowable increases for a class I area.

(ii) In any case where the Federal Land Manager demonstrates to the satisfaction of the State that the emissions from such facility will have an adverse impact on the air quality-related values (including visibility) of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will not cause or contribute to concentrations which exceed the maximum allowable increases for a class I area, a permit shall not be issued.

(iii) In any case where the owner or operator of such facility demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such facility will have no adverse impact on the air quality-related values of such lands (including visibility), notwithstanding the fact that the change in air quality resulting from emissions from such facility will cause or contribute to concentrations which exceed the maximum allowable increases for class I areas, the State may issue a permit.

(iv) In the case of a permit issued pursuant to clause (iii), such facility shall comply with such emission limitations under such permit as may

be necessary to assure that emissions of sulfur oxides and particulates from such facility will not cause or contribute to concentrations of such pollutant which exceed the following maximum allowable increases over the baseline concentration for such pollutants:

	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	19
Twenty-four-hour maximum	37
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four-hour maximum	91
Three-hour maximum	325

(D)(i) In any case where the owner or operator of a proposed major emitting facility who has been denied a certification under subparagraph (C)(iii) demonstrates to the satisfaction of the Governor, after notice and public hearing, and the Governor finds, that the facility cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four hours or less applicable to any class I area and, in the case of Federal mandatory class I areas, that a variance under this clause will not adversely affect the air quality related values of the area (including visibility), the Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant a variance from such maximum allowable increase. If such variance is granted, a permit may be issued to such source pursuant to the requirements of this subparagraph.

(ii) In any case in which the Governor recommends a variance under this subparagraph in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that such variance is in the national interest. No Presidential finding shall be reviewable in any court. The variance shall take effect if the President approves the Governor's recommendations. The President shall approve or disapprove such recommendation within ninety days after his receipt of the recommendations of the Governor and the Federal Land Manager.

(iii) In the case of a permit issued pursuant to this subparagraph, such facility shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides from such facility will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period:

MAXIMUM ALLOWABLE INCREASE

(In micrograms per cubic meter)

Period of exposure	Low terrain areas	High terrain areas
24-hr maximum	36	62
3-hr maximum	130	221

(iv) For purposes of clause (iii), the term "high terrain area" means with respect to any facility, any area having an elevation of 900 feet or more above the base of the stack of such facility, and the term "low terrain area" means any area other than a high terrain area.

(e) Analysis; continuous air quality monitoring data; regulations; model adjustments

(1) The review provided for in subsection (a) of this section shall be preceded by an analysis in accordance with regulations of the Administrator, promulgated under this subsection, which may be conducted by the State (or any general purpose unit of local government) or by the major emitting facility applying for such permit, of the ambient air quality at the proposed site and in areas which may be affected by emissions from such facility for each pollutant subject to regulation under this chapter which will be emitted from such facility.

(2) Effective one year after August 7, 1977, the analysis required by this subsection shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such facility will exceed the maximum allowable increases or the maximum allowable concentration permitted under this part. Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under this part unless the State, in accordance with regulations promulgated by the Administrator, determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis shall be available at the time of the public hearing on the application for such permit.

(3) The Administrator shall within six months after August 7, 1977, promulgate regulations respecting the analysis required under this subsection which regulations—

(A) shall not require the use of any automatic or uniform buffer zone or zones,

(B) shall require an analysis of the ambient air quality, climate and meteorology, terrain, soils and vegetation, and visibility at the site of the proposed major emitting facility and in the area potentially affected by the emissions from such facility for each pollutant regulated under this chapter which will be emitted from, or which results from the construction or operation of, such facility, the size and nature of the proposed facility, the degree of continuous emission reduction which could be achieved by such facility, and such other factors as may be relevant in determining the effect of emissions from a proposed facility on any air quality control region,

(C) shall require the results of such analysis shall be available at the time of the public

hearing on the application for such permit, and

(D) shall specify with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this part.

Any model or models designated under such regulations may be adjusted upon a determination, after notice and opportunity for public hearing, by the Administrator that such adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from a source applying for a permit required under this part.

(July 14, 1955, ch. 360, title I, § 165, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 735, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(44)-(51), 91 Stat. 1402.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-190, § 14(a)(44), substituted "part;" for "part:".

Subsec. (a)(3). Pub. L. 95-190, § 14(a)(45), added provision making applicable requirement of section 7410(j) of this title.

Subsec. (b). Pub. L. 95-190, § 14(a)(46), added "cause or" preceding "contribute" and struck out "actual" preceding "allowable emissions".

Subsec. (d)(2)(C). Pub. L. 95-190, § 14(a)(47) to (49), in cl. (ii) substituted "contribute" for "contribute", which for purposes of codification had already been substituted thereby requiring no further substitution in text, in cl. (iii) substituted "quality-related" for "quality-related" and "concentrations which" for "concentrations, which", and in cl. (iv) substituted "such facility" for "such sources" and "will not cause or contribute to concentrations of such pollutant which exceed" for "together with all other sources, will not exceed".

Subsec. (d)(2)(D). Pub. L. 95-190, § 14(a)(50), (51), in cl. (iii) substituted provisions relating to determinations of amounts of emissions of sulfur oxides from facilities, for provisions relating to determinations of amounts of emissions of sulfur oxides from sources operating under permits issued pursuant to this subpar., together with all other sources, and added cl. (iv).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7473 of this title.

§ 7476. Other pollutants

(a) Hydrocarbons, carbon monoxide, petrochemical oxidants, and nitrogen oxides

In the case of the pollutants hydrocarbons, carbon monoxide, photochemical oxidants, and nitrogen oxides, the Administrator shall conduct a study and not later than two years after August 7, 1977, promulgate regulations to prevent the significant deterioration of air quality which would result from the emissions of such pollutants. In the case of pollutants for which national ambient air quality standards are promulgated after August 7, 1977, he shall promulgate such regulations not more than 2 years after the date of promulgation of such standards.

(b) Effective date of regulations

Regulations referred to in subsection (a) of this section shall become effective one year after the date of promulgation. Within 21 months after such date of promulgation such plan revision shall be submitted to the Administrator who shall approve or disapprove the plan within 25 months after such date or promulgation in the same manner as required under section 7410 of this title.

(c) Contents of regulations

Such regulations shall provide specific numerical measures against which permit applications may be evaluated, a framework for stimulating improved control technology, protection of air quality values, and fulfill the goals and purposes set forth in section 7401 and section 7470 of this title.

(d) Specific measures to fulfill goals and purposes

The regulations of the Administrator under subsection (a) of this section shall provide specific measures at least as effective as the increments established in section 7473 of this title to fulfill such goals and purposes, and may contain air quality increments, emission density requirements, or other measures.

(e) Area classification plan not required

With respect to any air pollutant for which a national ambient air quality standard is established other than sulfur oxides or particulate matter, an area classification plan shall not be required under this section if the implementation plan adopted by the State and submitted for the Administrator's approval or promulgated by the Administrator under section 7410(c) of this title contains other provisions which when considered as a whole, the Administrator finds will carry out the purposes in section 7470 of this title at least as effectively as an area classification plan for such pollutant. Such other provisions referred to in the preceding sentence need not require the establishment of maximum allowable increases with respect to such pollutant for any area to which this section applies.

(July 14, 1955, ch. 360, title I, § 166, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 739.)

§ 7477. Enforcement

The Administrator shall, and a State may, take such measures, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction of a major emitting facility which does not conform to the requirements of this part, or which is proposed to be constructed in any area included in the list promulgated pursuant to paragraph (1)(D) or (E) of subsection (d) of section 7407 of this title and which is not subject to an implementation plan which meets the requirements of this part.

(July 14, 1955, ch. 360, title I, § 167, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 740.)

§ 7478. Period before plan approval

(a) Existing regulations to remain in effect

Until such time as an applicable implementation plan is in effect for any area, which plan meets the requirements of this part to prevent

significant deterioration of air quality with respect to any air pollutant, applicable regulations under this chapter prior to August 7, 1977, shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant except as otherwise provided in subsection (b) of this section.

(b) Regulations deemed amended; construction commenced after June 1, 1975

If any regulation in effect prior to August 7, 1977, to prevent significant deterioration of air quality would be inconsistent with the requirements of section 7472(a), section 7473(b) or section 7474(a) of this title, then such regulations shall be deemed amended so as to conform with such requirements. In the case of a facility on which construction was commenced (in accordance with the definition of "commenced" in section 7479(2) of this title) after June 1, 1975, and prior to August 7, 1977, the review and permitting of such facility shall be in accordance with the regulations for the prevention of significant deterioration in effect prior to August 7, 1977.

(July 14, 1955, ch. 360, title I, § 168, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 740, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(52), 91 Stat. 1402.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-190 substituted "(in accordance with the definition of 'commenced' in section 7479(2) of this title)" for "in accordance with this definition".

§ 7479. Definitions

For purposes of this part—

(1) The term "major emitting facility" means any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant from the following types of stationary sources: fossil-fuel fired steam electric plants of more than two hundred and fifty million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding three hundred thousand barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities. Such term also includes any other source with the potential to emit two hundred and fifty tons per year or more of any air pollutant. This term shall not include new or modified facilities which are nonprofit health or education institutions which have been exempted by the State.

(2)(A) The term "commenced" as applied to construction of a major emitting facility means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.

(B) The term "necessary preconstruction approvals or permits" means those permits or approvals, required by the permitting authority as a precondition to undertaking any activity under clauses (i) Or (ii) of subparagraph (A) of this paragraph.

(C) The term "construction" when used in connection with any source or facility, includes the modification (as defined in section 7411(a) of this title) of any source or facility.

(3) The term "best available control technology" means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this chapter emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 7411 or 7412 of this title.

(4) The term "baseline concentration" means, with respect to a pollutant, the ambient concentration levels which exist at the time of the first application for a permit in an area subject to this part, based on air quality data available in the Environmental Protection Agency or a State air pollution control agency and on such monitoring data as the permit applicant is required to submit. Such ambient concentration levels shall take into account all projected emissions in, or which may affect, such area from any major emitting facility on which construction commenced prior to January 6, 1975, but which has not begun operation by the date of the baseline air quality concentration determination. Emissions of sulfur oxides and particulate matter from any major emitting facility on which construction commenced after January 6, 1975, shall not be included in the baseline and shall be counted against the maxi-

mum allowable increases in pollutant concentrations established under this part.

(July 14, 1955, ch. 360, title I, § 169, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 127(a), 91 Stat. 740, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(54), 91 Stat. 1402.)

AMENDMENTS

1977—Subsec. (2)(C). Pub. L. 95-190 added subsec. (2)(C).

STUDY OF MAJOR EMITTING FACILITIES WITH POTENTIAL OF EMITTING 250 TONS PER YEAR

Section 127(b) of Pub. L. 95-95 provided that: "Within one year from the date of enactment of this Act [Aug. 7, 1977] the Administrator shall report to the Congress on the consequences of that portion of the definition of 'major emitting facility' under the amendment made by subsection (a) [which enacted this subpart] which applies to facilities with the potential to emit two hundred and fifty tons per year or more. Such study shall examine the type of facilities covered, the air quality benefits of including such facilities, and the administrative aspect of regulating such facilities."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7473, 7478 of this title.

SUBPART II—VISIBILITY PROTECTION

CODIFICATION

As originally enacted, subpart II of part C of subchapter I of this chapter was added following section 7478 of this title. Pub. L. 95-190, § 14(a)(53), Nov. 16, 1977, 91 Stat. 1402, struck out subpart II and inserted such subpart following section 7479 of this title.

§ 7491. Visibility protection for Federal class I areas

(a) Impairment of visibility; list of areas; study and report

(1) Congress hereby declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.

(2) Not later than six months after August 7, 1977, the Secretary of the Interior in consultation with other Federal land managers shall review all mandatory class I Federal areas and identify those where visibility is an important value of the area. From time to time the Secretary of the Interior may revise such identifications. Not later than one year after August 7, 1977, the Administrator shall, after consultation with the Secretary of the Interior, promulgate a list of mandatory class I Federal areas in which he determines visibility is an important value.

(3) Not later than eighteen months after August 7, 1977, the Administrator shall complete a study and report to Congress on available methods for implementing the national goal set forth in paragraph (1). Such report shall include recommendations for—

(A) methods for identifying, characterizing, determining, quantifying, and measuring visibility impairment in Federal areas referred to in paragraph (1), and

(B) modeling techniques (or other methods) for determining the extent to which manmade air pollution may reasonably be anticipated to cause or contribute to such impairment, and

(C) methods for preventing and remedying such manmade air pollution and resulting visibility impairment.

Such report shall also identify the classes or categories of sources and the types of air pollutants which, alone or in conjunction with other sources or pollutants, may reasonably be anticipated to cause or contribute significantly to impairment of visibility.

(4) Not later than twenty-four months after August 7, 1977, and after notice and public hearing, the Administrator shall promulgate regulations to assure (A) reasonable progress toward meeting the national goal specified in paragraph (1), and (B) compliance with the requirements of this section.

(b) Regulations

Regulations under subsection (a)(4) of this section shall—

(1) provide guidelines to the States, taking into account the recommendations under subsection (a)(3) of this section on appropriate techniques and methods for implementing this section (as provided in subparagraphs (A) through (C) of such subsection (a)(3)), and

(2) require each applicable implementation plan for a State in which any area listed by the Administrator under subsection (a)(2) of this section is located (or for a State the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area) to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal specified in subsection (a) of this section, including—

(A) except as otherwise provided pursuant to subsection (c) of this section, a requirement that each major stationary source which is in existence on August 7, 1977, but which has not been in operation for more than fifteen years as of such date, and which, as determined by the State (or the Administrator in the case of a plan promulgated under section 7410(c) of this title) emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area, shall procure, install, and operate, as expeditiously as practicable (and maintain thereafter) the best available retrofit technology, as determined by the State (or the Administrator in the case of a plan promulgated under section 7410(c) of this title) for controlling emissions from such source for the purpose of eliminating or reducing any such impairment, and

(B) a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal specified in subsection (a) of this section.

In the case of a fossil-fuel fired generating powerplant having a total generating capacity

in excess of 750 megawatts, the emission limitations required under this paragraph shall be determined pursuant to guidelines, promulgated by the Administrator under paragraph (1).

(c) Exemptions

(1) The Administrator may, by rule, after notice and opportunity for public hearing, exempt any major stationary source from the requirement of subsection (b)(2)(A) of this section, upon his determination that such source does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to a significant impairment of visibility in any mandatory class I Federal area.

(2) Paragraph (1) of this subsection shall not be applicable to any fossil-fuel fired powerplant with total design capacity of 750 megawatts or more, unless the owner or operator of any such plant demonstrates to the satisfaction of the Administrator that such powerplant is located at such distance from all areas listed by the Administrator under subsection (a)(2) of this section that such powerplant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to significant impairment of visibility in any such area.

(3) An exemption under this subsection shall be effective only upon concurrence by the appropriate Federal land manager or managers with the Administrator's determination under this subsection.

(d) Consultations with appropriate Federal land managers

Before holding the public hearing on the proposed revision of an applicable implementation plan to meet the requirements of this section, the State (or the Administrator, in the case of a plan promulgated under section 7410(c) of this title) shall consult in person with the appropriate Federal land manager or managers and shall include a summary of the conclusions and recommendations of the Federal land managers in the notice to the public.

(e) Buffer zones

In promulgating regulations under this section, the Administrator shall not require the use of any automatic or uniform buffer zone or zones.

(f) Nondiscretionary duty

For purposes of section 7604(a)(2) of this title, the meeting of the national goal specified in subsection (a)(1) of this section by any specific date or dates shall not be considered a "nondiscretionary duty" of the Administrator.

(g) Definitions

For the purpose of this section—

(1) in determining reasonable progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements;

(2) in determining best available retrofit technology the State (or the Administrator in determining emission limitations which reflect such technology) shall take into consideration the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology;

(3) the term "manmade air pollution" means air pollution which results directly or indirectly from human activities;

(4) the term "as expeditiously as practicable" means as expeditiously as practicable but in no event later than five years after the date of approval of a plan revision under this section (or the date of promulgation of such a plan revision in the case of action by the Administrator under section 7410(c) of this title for purposes of this section);

(5) the term "mandatory class I Federal areas" means Federal areas which may not be designated as other than class I under this part;

(6) the terms "visibility impairment" and "impairment of visibility" shall include reduction in visual range and atmospheric discoloration; and

(7) the term "major stationary source" means the following types of stationary sources with the potential to emit 250 tons or more of any pollutant: fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incenerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than 250 million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities.

(July 14, 1955, ch. 360, title I, § 169A, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 128, 91 Stat. 742.)

EFFECTIVE DATE

Subpart effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7604 of this title.

PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 7407, 7410, 7421, 7604, 7616 of this title.

§ 7501. Definitions

For the purpose of this part and section 7410(a)(2)(I) of this title—

(1) The term "reasonable further progress" means annual incremental reductions in emissions of the applicable air pollutant (including substantial reductions in the early years following approval or promulgation of plan provisions under this part and section 7410(a)(2)(I) of this title and regular reductions thereafter) which are sufficient in the judgment of the Administrator, to provide for attainment of the applicable national ambient air quality standard by the date required in section 7502(a) of this title.

(2) The term "nonattainment area" means, for any air pollutant an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under subparagraphs (A) through (C) of section 7407(d)(1) of this title.

(3) The term "lowest achievable emission rate" means for any source, that rate of emissions which reflects—

(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(B) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(4) The terms "modifications" and "modified" mean the same as the term "modification" as used in section 7411(a)(4) of this title.

(July 14, 1955, ch. 360, title I, § 171, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 746.)

EFFECTIVE DATE

Part effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7502, 7503 of this title.

§ 7502. Nonattainment plan provisions

(a) Expeditious attainment of national ambient air quality standards

(1) The provisions of an applicable implementation plan for a State relating to attainment and maintenance of national ambient air quality standards in any nonattainment area which are required by section 7410(a)(2)(I) of this title as a precondition for the construction or modification of any major stationary source in any such area on or after July 1, 1979, shall provide for attainment of each such national ambient air quality standard in each such area as expeditiously as practicable, but, in the case of national primary ambient air quality standards, not later than December 31, 1982.

(2) In the case of the national primary ambient air quality standard for photochemical oxidants or carbon monoxide (or both) if the State demonstrates to the satisfaction of the Administrator (on or before the time required for submission of such plan) that such attainment is not possible in an area with respect to either or both of such pollutants within the period prior to December 31, 1982, despite the implementation of all reasonably available measures, such provisions shall provide for the attainment of the national primary standard for the pollutant (or pollutants) with respect to which such demonstration is made, as expeditiously as practicable but not later than December 31, 1987.

(b) Requisite provisions of plan

The plan provisions required by subsection (a) of this section shall—

(1) be adopted by the State (or promulgated by the Administrator under section 7410(c) of this title) after reasonable notice and public hearing;

(2) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

(3) require, in the interim, reasonable further progress (as defined in section 7501(1) of this title) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

(4) include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a) of this section;

(5) expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

(6) require permits for the construction and operation of new or modified major stationary sources in accordance with section 7503 of this title (relating to permit requirements);

(7) identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

(8) contain emission limitations, schedules of compliance and such other measures as may be necessary to meet the requirements of this section;

(9) evidence public, local government, and State legislative involvement and consultation in accordance with section 7504 of this title (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

(10) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

(11) in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a) of this section—

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification;

(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

(c) Attainment of applicable standard not later than July 1, 1987

In the case of a State plan revision required under the Clean Air Act Amendments of 1977 to be submitted before July 1, 1982, by reason of a demonstration under subsection (a)(2) of this section, effective on such date such plan shall contain enforceable measures to assure attainment of the applicable standard not later than December 31, 1987.

(July 14, 1955, ch. 360, title I, § 172, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 746, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(55), (56), 91 Stat. 1402.)

References in Text

The Clean Air Act Amendments of 1977, referred to in subsec. (c), is Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685, amended this chapter generally. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 7401 of this title and Tables.

Amendments

1977—Subsec. (b)(4). Pub. L. 95-190, § 14(a)(55), substituted "subsection (a) of this section" for "paragraph (1)".

Subsec. (c). Pub. L. 95-190, § 14(a)(56), substituted "December 31" for "July 1".

Nonattainment Areas

Section 129(a) of Pub. L. 95-95, as amended by Pub. L. 95-190, § 14(b)(2), (3), Nov. 16, 1977, 91 Stat. 1404, provided that:

"(1) Before July 1, 1979, the interpretative regulation of the Administrator of the Environmental Protection Agency published in 41 Federal Register 55524-30, December 21, 1976, as may be modified by rule of the Administrator, shall apply except that the baseline to be used for determination of appropriate emission offsets under such regulation shall be the applicable implementation plan of the State in effect at the time of application for a permit by a proposed major stationary source (within the meaning of section 302 of the Clean Air Act) [section 7602 of this title].

"(2) Before July 1, 1979, the requirements of the regulation referred to in paragraph (1) shall be waived by the Administrator with respect to any pollutant if he determines that the State has—

"(A) an inventory of emissions of the applicable pollutant for each nonattainment area (as defined in section 171 of the Clean Air Act [section 7501 of this title]) that identifies the type, quantity, and source of such pollutant so as to provide information sufficient to demonstrate that the requirements of subparagraph (C) are being met;

"(B) an enforceable permit program which—

"(i) requires new or modified major stationary sources to meet emission limitations at least as stringent as required under the permit requirements referred to in paragraphs (2) and (3) of section 173 of the Clean Air Act [section 7503 of this title] (relating to lowest achievable emission rate and compliance by other sources) and which assures compliance with the annual reduction requirements of subparagraph (C); and

"(ii) requires existing sources to achieve such reduction in emissions in the area as may be obtained through the adoption, at a minimum of reasonably available control technology, and

"(C) a program which requires reductions in total allowable emissions in the area prior to July 1, 1979, so as to provide for the same level of emission reduction as would result from the application of the regulation referred to in paragraph (1).

The Administrator shall terminate such waiver if in his judgment the reduction in emissions actually being attained is less than the reduction on which the waiver was conditioned pursuant to subparagraph (C), or if the Administrator determines that the State is no longer in compliance with any requirement of this paragraph. Upon application by the State, the Administrator may reinstate a waiver terminated under the preceding sentence if he is satisfied that such State is in compliance with all requirements of this subsection.

"(3) Operating permits may be issued to those applicants who were properly granted construction permits, in accordance with the law and applicable regulations in effect at the time granted, for construction of a new or modified source in areas exceeding national primary air quality standards on or before the date of the enactment of this Act [Aug. 7, 1977] if such construction permits were granted prior to the date of the enactment of this Act and the person issued any such permit is able to demonstrate that the emissions from the source will be within the limitations set forth in such construction permit."

STATE IMPLEMENTATION PLAN REVISION

Section 129(c) of Pub. L. 95-95, as amended by Pub. L. 95-190, § 14(b)(4), Nov. 16, 1977, 91 Stat. 1405, provided that: "Notwithstanding the requirements of section 406(d)(2) [set out as an Effective Date of 1977 Amendment rate under section 7401 of this title] (relating to date required for submission of certain implementation plan revisions), for purposes of section 110(a)(2) of the Clean Air Act [section 7410 (a)(2) of this title] each State in which there is any nonattainment area (as defined in part D of title I of the Clean Air Act) [this part] shall adopt and submit an implementation plan revision which meets the requirements of section 110(a)(2)(I) [section 7410(a)(2)(I) of this title] and part D of title I of the Clean Air Act [this part] not later than January 1, 1979. In the case of any State for which a plan revision adopted and submitted before such date has made the demonstration required under section 172(a)(2) of the Clean Air Act [subsec. (a)(2) of this section] (respecting impossibility of attainment before 1983), such State shall adopt and submit to the Administrator a plan revision before July 1, 1982, which meets the requirements of section 172(b) and (c) of such Act [subsecs. (b) and (c) of this section]".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7501, 7503, 7506 of this title.

§ 7503. Permit requirements

The permit program required by section 7502(b)(6) of this title shall provide that permits to construct and operate may be issued if—

(1) the permitting agency determines that—

(A) by the time the source is to commence operation, total allowable emissions from existing sources in the region, from new or modified sources which are not major emitting facilities, and from the proposed source will be sufficiently less than total emissions from existing sources allowed under the applicable implementation plan prior to the application for such permit to construct or modify so as to represent (when considered together with the plan provisions required under section 7502 of this title) reasonable further progress (as defined in section 7501 of this title); or

(B) that emissions of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources under section 7502(b) of this title;

(2) the proposed source is required to comply with the lowest achievable emission rate;

(3) the owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in such State are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under this chapter; and

(4) the applicable implementation plan is being carried out for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this part.

Any emission reductions required as a precondition of the issuance of a permit under paragraph (1)(A) shall be legally binding before such permit may be issued.

(July 14, 1955, ch. 360, title I, § 173, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 748, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(57), (58), 91 Stat. 1403.)

AMENDMENTS

1977—Par. (1)(A). Pub. L. 95-190, § 14(a)(57), added "or modified" following "from new" and "applicable" preceding "implementation plan", and substituted "source" for "facility" wherever appearing therein.

Par. (4). Pub. L. 95-190, § 14(a)(58), added par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7502 of this title.

§ 7504. Planning procedures

(a) Preparation of implementation plan by designated organization

Within six months after August 7, 1977, for each region in which the national primary ambient air quality standard for carbon monoxide or photochemical oxidants will not be attained by July 1, 1979, the State and elected officials of affected local governments shall jointly determine which elements of a revised implementation plan will be planned for and implemented or enforced by the State and which such elements will be planned for and implemented or enforced by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. Where possible within the time required under this subsection, the implementation plan required by this part shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and certified by the State for this purpose. Where such an organization has not been designated by agreement within six months after August 7, 1977, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, and in accordance with the determination under the first sentence of this subparagraph, shall designate an organization of elected officials of local governments in the affected area or a State agency to prepare such plan. Where feasible, such organization shall be the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, or the organization responsible for the air quality maintenance planning process under regulations implementing this section, or the organization with both responsibilities.

(b) Coordination of plan preparation

The preparation of implementation plan provisions under this part shall be coordinated with the continuing, cooperative, and comprehensive transportation planning process re-

quired under section 134 of title 23 and the air quality maintenance planning process required under section 7410 of this title, and such planning processes shall take into account the requirements of this part.

(July 14, 1955, ch. 360, title I, § 174, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 748.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7502, 7505 of this title.

§ 7505. Environmental Protection Agency grants

(a) Plan revision development costs

The Administrator shall make grants to any organization of local elected officials with transportation or air quality maintenance planning responsibilities recognized by the State under section 7504(a) of this title for payment of the reasonable costs of developing a plan revision under this part.

(b) Uses of grant funds

The amount granted to any organization under subsection (a) of this section shall be 100 percent of any additional costs of developing a plan revision under this part for the first two fiscal years following receipt of the grant under this paragraph, and shall supplement any funds available under Federal law to such organization for transportation or air quality maintenance planning. Grants under this section shall not be used for construction.

(July 14, 1955, ch. 360, title I, § 175, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 749.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7408, 7626 of this title.

§ 7506. Limitations on certain Federal assistance

(a) Approval of projects or award of grants

The Administrator shall not approve any projects or award any grants authorized by this chapter and the Secretary of Transportation shall not approve any projects or award any grants under title 23, other than for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance, in any air quality control region—

(1) in which any national primary ambient air quality standard has not been attained,

(2) where transportation control measures are necessary for the attainment of such standard, and

(3) where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 7502 of this title or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 7502 of this title to be submitted before July 1, 1982).

(b) Implementation of approved or promulgated plans

In any area in which the State or, as the case may be, the general purpose local government or governments or any regional agency designated by such general purpose local governments for such purpose, is not implementing any requirement of an approved or promulgated plan under section 7410 of this title, including any requirement for a revised implementation plan under this part, the Administrator shall not make any grants under this chapter.

(c) Activities not conforming to approved or promulgated plans

No department, agency, or instrumentality of the Federal Government shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve, any activity which does not conform to a plan after it has been approved or promulgated under section 7410 of this title. No metropolitan planning organization designated under section 134 of title 23, shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under section 7410 of this title. The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

(d) Priority of achieving and maintaining national primary ambient air quality standards

Each department, agency, or instrumentality of the Federal Government having authority to conduct or support any program with air-quality related transportation consequences shall give priority in the exercise of such authority, consistent with statutory requirements for allocation among States or other jurisdictions, to the implementation of those portions of plans prepared under this section to achieve and maintain the national primary ambient air quality standard. This paragraph extends to, but is not limited to, authority exercised under the Urban Mass Transportation Act [49 U.S.C. 1601 et seq.], title 23, and the Housing and Urban Development Act.

(July 14, 1955, ch. 360, title I, § 176, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 749, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(59), 91 Stat. 1403.)

REFERENCES IN TEXT

Title 23, referred to in subsecs. (a) and (d), is Title 23, Highways.

The Urban Mass Transportation Act, referred to in subsec. (d), probably means the Urban Mass Transportation Act of 1964, Pub. L. 88-365, July 9, 1964, 78 Stat. 302, as amended, which is classified generally to chapter 21 (§ 1601 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 49 and Tables.

The Housing and Urban Development Act, referred to in subsec. (d), may be the name for a series of acts sharing the same name but enacted in different years by Pub. L. 89-117, Aug. 10, 1965, 79 Stat. 451; Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476; Pub. L. 91-152, Dec. 24, 1969, 83 Stat. 379; and Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1770, respectively. For complete classification of these Acts to the Code, see Short Title notes set out

under section 1701 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-190 added "national" preceding "primary".

§ 7507. New motor vehicle emission standards in nonattainment areas

Notwithstanding section 7543(a) of this title, any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 7543(a) of this title respecting such vehicles if—

(1) such standards are identical to the California standards for which a waiver has been granted for such model year, and

(2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator).

(July 14, 1955, ch. 360, title I, § 177, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 750.)

§ 7508. Guidance documents

The Administrator shall issue guidance documents under section 7408 of this title for purposes of assisting States in implementing requirements of this part respecting the lowest achievable emission rate. Such a document shall be published not later than nine months after August 7, 1977, and shall be revised at least every two years thereafter.

(July 14, 1955, ch. 360, title I, § 178, as added Aug. 7, 1977, Pub. L. 95-95, title I, § 129(b), 91 Stat. 750.)

SUBCHAPTER II—EMISSION STANDARDS FOR MOVING SOURCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 7414, 7613 of this title.

§ 7521. Emission standards for new motor vehicles or new motor vehicle engines

(a) Authority of Administrator to prescribe by regulation

Except as otherwise provided in subsection (b) of this section—

(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d) of this section, relating to useful life of vehicles for purposes of certification), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

(2) Any regulation prescribed under paragraph (1) of this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(3)(A)(i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1979. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1979 through 1982 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year—

(I) 1983, in the case of hydrocarbons and carbon monoxide, shall contain standards which require a reduction of at least 90 per cent, and

(II) 1985, in the case of oxides of nitrogen, shall contain standards which require a reduction of at least 75 per cent,

from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicles or engines, or any class or category thereof, manufactured during the baseline model year.

(iii) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of particulate matter from classes or categories of vehicles manufactured during and after model year 1981 (or during any earlier model year, if practicable). Such regulations shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. Such standards shall be promulgated and shall take effect as expeditiously as practicable taking into account the period necessary for compliance.

(iv) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may

base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate.

(v) For the purpose of this paragraph, the term "baseline model year" means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

(B) During the period of June 1 through December 31, 1978, in the case of hydrocarbons and carbon monoxide, or during the period of June 1 through December 31, 1980, in the case of oxides of nitrogen, and during each period of June 1 through December 31 of each third year thereafter, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A)(ii) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning four model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production of such period and shall prescribe a revised emission standard in accordance with such determination. Such revised standard shall require a reduction of emissions from any standard which applies in the previous model year.

(C) Action revising any standard for any period may be taken by the Administrator under subparagraph (B) only if he finds—

(i) that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods, or other alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c) of this section, issued a report substantially contrary to the findings of the Administrator under clause (i).

(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

(i) a summary of the health effects found, or believed to be associated with, the pollutant covered by such standard,

(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under part C of subchapter I (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply.

(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A)(ii) or, if applicable, subparagraph (E), and

(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

(E)(i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1978, in the case of hydrocarbons and carbon monoxide, and June 1, 1980, in the case of oxides of nitrogen, and before June 1 of each third year thereafter.

(ii) On the basis of such study and such other information as is available to him (including the studies under section 7548 of this title), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A)(ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year four years after the model year during which regulations containing such changed standard are promulgated.

(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines (except as otherwise permitted under section 7525(f)(1) of this title) unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) of this section applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category. In any case in which such standards are promulgated for such emissions from motorcycles as a separate class or category, the Administrator, in promulgating such standards, shall consider the need to achieve equivalency of emission reductions between motorcycles and other motor vehicles to the maximum extent practicable.

(4)(A) Effective with respect to vehicles and engines manufactured after model year 1978, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(B) In determining whether an unreasonable risk exists under subparagraph (A), the Administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, in-

creases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 7548 of this title.

(5)(A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the Administrator shall, after consultation with the Secretary of Transportation with respect to motor vehicle safety, prescribe, by regulation, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which the Administrator determines may be required to comply with such vapor recovery regulations. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum pipe or nozzle insertion angle, and such other factors as he deems pertinent.

(B) Regulations prescribing standards under subparagraph (A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate leadtime for design and production.

(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configuration, modeling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

(D) For the purpose of this paragraph, the term "fill pipe" shall include the fuel tank fill pipe, fill neck, fill inlet, and closure.

(6) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize onboard hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall, after consultation with the Secretary of Transportation with respect to motor vehicle safety, prescribe, by regulation, standards requiring the use of onboard hydrocarbon technology which shall not become effective until the introduction to the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.

(b) Emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen; annual report to Congress; waiver of emission standards; research objectives

(1)(A) The regulations under subsection (a) of this section applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile of hydrocarbons and 15.0 grams per vehicle mile of carbon monoxide. The regulations under subsection (a) of this section applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during the model year 1980 shall contain standards which provide that such emissions may not exceed 7.0 grams per vehicle mile. The regulations under subsection (a) of this section applicable to emissions of hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 percent from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970. Unless waived as provided in paragraph (5), regulations under subsection (a) of this section applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during or after the model year 1981 shall contain standards which require a reduction of at least 90 percent from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during the model year 1981 and thereafter shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 gram per vehicle mile. The Administrator shall prescribe standards in lieu of those required by the preceding sentence, which provide that emissions of oxides of nitrogen may not exceed 2.0 grams per vehicle mile for any light-duty vehicle manufactured during model years 1981 and 1982 by any manufacturer whose production, by corporate identity, for calendar year 1976 was less than three hundred

thousand light-duty motor vehicles worldwide if the Administrator determines that—

(i) the ability of such manufacturer to meet emission standards in the 1975 and subsequent model years was, and is, primarily dependent upon technology developed by other manufacturers and purchased from such manufacturers; and

(ii) such manufacturer lacks the financial resources and technological ability to develop such technology.

(C) Effective with respect to vehicles and engines manufactured after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after August 7, 1977.

(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to December 31, 1970), shall be prescribed by regulation within 180 days after such date.

(3) For purposes of this part—

(A)(i) The term "model year" with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b) of this section, the Administrator may prescribe regulations defining "model year" otherwise than as provided in clause (i).

(B) The term "light duty vehicles and engines" means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.

(C) The term "heavy duty vehicle" means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.

(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this chapter. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 7607(a) of this title (relating to subpenas) shall apply.

(5)(A) At any time after August 31, 1978, any manufacturer may file an application requesting the waiver for model years 1981 and 1982 of the effective date of the emission standard required by paragraph (1)(A) for carbon monoxide applicable to any model (as determined by the Administration) of light-duty motor vehicles and engines manufactured in such model years. The Administrator shall make his determination with respect to any such application within sixty days after such application is filed with respect to such model. If he determines, in accordance with the provisions of this paragraph, that such waiver should be granted, he shall simultaneously with such determination prescribe by regulation emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide from such model of vehicles or engines manufactured during model years 1981 and 1982.

(B) Any standards prescribed under this paragraph shall not permit emissions of carbon monoxide from vehicles and engines to which such waiver applies to exceed 7.0 grams per vehicle per mile.

(C) Within sixty days after receipt of the application for any such waiver and after public hearing, the Administrator shall issue a decision granting or refusing such waiver. The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) all good faith efforts have been made to meet the standards established by this subsection;

(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) of this section and other information available to him has not indicat-

ed that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

(6)(A) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) to not exceed 1.5 grams of oxides of nitrogen per vehicle mile for any class or category of light-duty vehicles or engines manufactured by such manufacturer during any period of up to four model years beginning after the model year 1980 if the manufacturer demonstrates that such waiver is necessary to permit the use of an innovative power train technology, or innovative emission control device or system, in such class or category of vehicles or engines and that such technology or system was not utilized by more than 1 percent of the light-duty vehicles sold in the United States in the 1975 model year. Such waiver may be granted only if the Administrator determines—

(i) that such waiver would not endanger public health,

(ii) that there is a substantial likelihood that the vehicles or engines will be able to comply with the applicable standard under this section at the expiration of the waiver, and

(iii) that the technology or system has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] upon the expiration of the waiver.

No waiver under this subparagraph granted to any manufacturer shall apply to more than 5 percent of such manufacturer's production or more than fifty thousand vehicles or engines, whichever is greater.

(B) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) to not to exceed 1.5 grams of oxides of nitrogen per vehicle mile for any class or category of light-duty vehicles and engines manufactured by such manufacturer during the four model year period beginning with the model year 1981 if the manufacturer can show that such waiver is necessary to permit the use of diesel engine technology in such class or category of vehicles or engines. Such waiver may be granted if the Administrator determines—

(i) that such waiver will not endanger public health,

(ii) that such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.], and

(iii) that the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] at the expiration of the waiver.

(7) The Congress hereby declares and establishes as a research objective, the development of propulsion systems and emission control technology to achieve standards which represent a reduction of at least 90 per centum from the average emissions of oxides of nitrogen actually measured from light duty motor vehicles manufactured in model year 1971 not subject to any Federal or State emission standard for oxides of nitrogen. The Administrator shall, by regulations promulgated within one hundred and eighty days after August 7, 1977, require each manufacturer whose sales represent at least 0.5 per centum of light duty motor vehicle sales in the United States, to build and, on a regular basis, demonstrate the operation of light duty motor vehicles that meet this research objective, in addition to any other applicable standards or requirements for other pollutants under this chapter. Such demonstration vehicles shall be submitted to the Administrator no later than model year 1979 and in each model year thereafter. Such demonstration shall, in accordance with applicable regulations, to the greatest extent possible, (A) be designed to encourage the development of new powerplant and emission control technologies that are fuel efficient, (B) assure that the demonstration vehicles are or could reasonably be expected to be within the productive capability of the manufacturers, and (C) assure the utilization of optimum engine, fuel, and emission control systems.

(c) Feasibility study and investigation by National Academy of Sciences; reports to Administrator and Congress; availability of information

(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

(2) Of the funds authorized to be appropriated to the Administrator by this chapter, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this chapter (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such

person as may be reasonably necessary to carry out this subsection.

(d) Useful life of vehicles

The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 7541 of this title. Such regulations shall provide that useful life shall—

(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or fifty thousand miles (or the equivalent), whichever first occurs;

(2) in the case of any other motor vehicle or motor vehicle engine (other than motorcycles or motorcycle engines), be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate; and

(3) in the case of any motorcycle or motorcycle engine, be a period of use the Administrator shall determine.

(e) New power sources or propulsion systems

In the event of a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 7525(a) of this title, the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger the public health or welfare but for which standards have not been prescribed under subsection (a) of this section.

(f) High altitude regulations

(1) The high altitude regulation in effect with respect to model year 1977 motor vehicles shall not apply to the manufacture, distribution, or sale of 1978 and later model year motor vehicles. Any future regulation affecting the sale or distribution of motor vehicles or engines manufactured before the model year 1984 in high altitude areas of the country shall take effect no earlier than model year 1981.

(2) Any such future regulation applicable to high altitude vehicles or engines shall not require a percentage of reduction in the emissions of such vehicles which is greater than the required percentage of reduction in emissions from motor vehicles as set forth in subsection (b) of this section. This percentage reduction shall be determined by comparing any proposed high altitude emission standards to high altitude emissions from vehicles manufactured during model year 1970. In no event shall regulations applicable to high altitude vehicles manufactured before the model year 1984 establish a numerical standard which is more stringent than that applicable to vehicles certified under non-high altitude conditions.

(3) Section 7607(d) of this title shall apply to any high altitude regulation referred to in paragraph (2) and before promulgating any such regulation, the Administrator shall consider and make a finding with respect to—

(A) the economic impact upon consumers, individual high altitude dealers, and the automobile industry of any such regulation, including the economic impact which was experienced as a result of the regulation imposed during model year 1977 with respect to high altitude certification requirements;

(B) the present and future availability of emission control technology capable of meeting the applicable vehicle and engine emission requirements without reducing model availability; and

(C) the likelihood that the adoption of such a high altitude regulation will result in any significant improvement in air quality in any area to which it shall apply.

(July 14, 1955, ch. 360, title II, § 202, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, § 6(a), 84 Stat. 1690; June 22, 1974, Pub. L. 93-319, § 5, 88 Stat. 258; Aug. 7, 1977, Pub. L. 95-95, title II, §§ 201, 202(b), 213(b), 214(a), 215-217, 224(a), (b), (g), title IV, 401(d), 91 Stat. 751-753, 758-761, 765, 767, 769, 791; Nov. 16, 1977, Pub. L. 95-190, § 14(a) (60)-(65), (b)(5), 91 Stat. 1403, 1405.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (b)(6)(A)(iii), (B)(ii), (iii), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, which is classified principally to chapter 77 (§ 6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1857f-1 of this title.

Section 14(b)(5) of Pub. L. 95-190 amended section 224(g) of Pub. L. 95-95, which had amended subsec. (d) of this section, without affecting the text of this section.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-190, § 14(a)(60), restructured subsec. by providing for designation of par. to precede "The Administrator" in place of "Except as".

Pub. L. 95-95, § 401(d)(1), substituted "Except as otherwise provided in subsection (b) of this section the Administrator" for "The Administrator", "cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare" for "causes or contributes to, or is likely to cause or contribute to, air pollution which endangers the public health or welfare", and "useful life (as determined under subsection (d) of this section, relating to useful life of vehicles for purposes of certification), whether such vehicles and engines are designed as complete systems or incorporate devices" for "useful life (as determined under subsection (d) of this section) whether such vehicles and engines are designed as complete systems or incorporated devices".

Subsec. (a)(2). Pub. L. 95-95, § 214(a), substituted "prescribed under paragraph (1) of this subsection" for "prescribed under this subsection".

Subsec. (a)(3). Pub. L. 95-95, § 224(a), added subsec. (a)(3).

Subsec. (a)(3)(B). Pub. L. 95-190, § 14(a)(61), (62), substituted provisions setting forth applicable periods of from June 1 through Dec. 31, 1978, June 1 through Dec. 31, 1980, and during each period of June 1 through Dec. 31 of each third year thereafter, for provisions setting forth applicable periods of from June 1 through Dec. 31, 1979, and during each period of June

1 through Dec. 31 of each third year after 1979, and substituted "from any" for "of from any".

Subsec. (a)(3)(E). Pub. L. 95-190, § 14(a)(63), substituted "1978, in the case of hydrocarbons and carbon monoxide, and June 1, 1980, in the case of oxides of nitrogen" for "1979,".

Subsec. (a)(4). Pub. L. 95-95, § 214(a), added subsec. (a)(4).

Subsec. (a)(5). Pub. L. 95-95, § 215, added subsec. (a)(5).

Subsec. (a)(6). Pub. L. 95-95, § 216, added subsec. (a)(6).

Subsec. (b)(1)(A). Pub. L. 95-95, § 201(a), substituted provisions setting the standards for emissions from light-duty vehicles and engines manufactured during the model years 1977 through 1980 for provisions which had set the standards for emissions from light-duty vehicles and engines manufactured during the model years 1975 and 1976, substituted "model year 1980" for "model year 1977" in the provisions requiring a reduction of at least 90 per centum from the emissions allowable under standards for model year 1970, and added provisions that, unless waived as provided in par. (5), the standards for vehicles and engines manufactured during or after the model year 1981 represent a reduction of at least 90 per centum from the emissions allowable under standards for model year 1970.

Subsec. (b)(1)(B). Pub. L. 95-190, § 14(a)(64), (65), substituted "calendar year 1976" for "model year 1976" and in cl. (i) substituted "other" for "United States".

Pub. L. 95-95, § 201(b), substituted provisions setting the standards for emissions from light-duty vehicles and engines manufactured during the model years 1977 through 1980 for provisions which had set the standards for emissions from light-duty vehicles and engines manufactured during the model years 1975 through 1977, substituted provisions that the standards for model years 1981 and after allow emissions of no more than 1.0 gram per vehicle mile for provisions that the standards for model year 1978 and after require a reduction of at least 90 per centum from the average of emissions actually measured from light-duty vehicles manufactured during model year 1971 which were not subject to any Federal or State emission standards for oxides of nitrogen, and added provisions directing the Administrator to prescribe standards separate standards for model years 1981 and 1982 for manufacturers whose production, by corporate identity, for model year 1976 was less than three hundred thousand light-duty motor vehicles worldwide if the manufacturer's capability to meet emission standards depends upon United States technology and if the manufacturer cannot develop one.

Subsec. (b)(1)(C). Pub. L. 95-95, § 217, added subsec. (b)(1)(C).

Subsec. (b)(3)(C). Pub. L. 95-95, § 224(b), added subsec. (b)(3)(C).

Subsec. (b)(5). Pub. L. 95-95, § 201(c), substituted provisions setting up a procedure under which a manufacturer may apply for a waiver for model years 1981 and 1982 of the effective date of the emission standards for carbon-monoxide required by par. (1)(A) for provisions which had set up a procedure under which a manufacturer, after Jan. 1, 1975, could apply for a one-year suspension of the effective date of any emission standard required by par. (1)(A) for model year 1977.

Subsec. (b)(6). Pub. L. 95-95, § 201(c), added subsec. (b)(6).

Subsec. (b)(7). Pub. L. 95-95, § 202(b), added subsec. (b)(7).

Subsec. (d)(2). Pub. L. 95-95, § 224(g), added "(other than motorcycles or motorcycle engines)" after "motor vehicle or motor vehicle engine".

Subsec. (d)(3). Pub. L. 95-95, § 224(g), added subsec. (d)(3).

Subsec. (e). Pub. L. 95-95, § 401(d)(2), substituted "which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger" for "which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers".

Subsec. (f). Pub. L. 95-95, § 213(b), added subsec. (f).

1974—Subsec. (b)(1)(A). Pub. L. 93-319, § 5(a), substituted "model year 1977" for "model year 1975" in provisions requiring a reduction of at least 90 per centum from the emissions allowable under standards for model year 1970 and added provisions covering regulations for model years 1975 and 1976.

Subsec. (b)(1)(B). Pub. L. 93-319, § 5(b), substituted "model year 1978" for "model year 1976" in the provisions requiring a reduction of at least 90 per centum from the average of emissions actually measured from vehicles manufactured during model year 1971 and added provisions covering regulations for model years 1975, 1976, and 1977.

Subsec. (b)(5). Pub. L. 93-319, § 5(c), (d), substituted in subpart. (A), "At any time after January 1, 1975" for "At any time after January 1, 1972", "with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977" for "with respect to such manufacturer" "sixty days" for "60 days", "paragraph (1)(A) of this subsection" for "paragraph (1)(A)", and "vehicles and engines manufactured during model year 1977" for "vehicles and engines manufactured during model year 1975", redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which had allowed manufacturers, at any time after Jan. 1, 1973, to file with the Administrator an application requesting a 1-year suspension of the effective date of any emission standard required by subsec. (b)(1)(B) with respect to such manufacturer.

1970—Subsec. (a) Pub. L. 91-604 redesignated existing provisions as par. (1) and, in par. (1) as so redesignated, substituted Administrator for Secretary as the issuing authority for standards, inserted references to the useful life of engines, and substituted the emission of any air pollutant for the emission of any kind of substance as the subject to be regulated, and added par. (2).

Subsec. (b). Pub. L. 91-604 added subsec. (b). Former subsec. (b) redesignated as par. (2) of subsec. (a).

Subsecs. (c) to (e). Pub. L. 91-604 added subsecs. (c) to (e).

1967—Pub. L. 90-148 reenacted section without change.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Study on Oxides of Nitrogen From Light Duty Vehicles

Section 202(a) of Pub. L. 95-95 provided that: "The Administrator of the Environmental Protection Agency shall conduct a study of the public health implications of attaining an emission standard on oxides of nitrogen from light duty vehicles of 0.4 gram per vehicle mile, the cost and technological capability of attaining such standard, and the need for such a standard to protect public health or welfare. The Administrator shall submit a report of such study to the Congress, together with recommendations not later than July 1, 1980."

Study of Carbon Monoxide Intrusion Into Sustained Use Vehicles

Section 226 of Pub. L. 95-95 provided that:

"(a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into the passenger area of sustained-use motor vehicles. Such study shall include

an analysis of the sources and levels of carbon monoxide in the passenger area of such vehicles and a determination of the effects of carbon monoxide upon the passengers. The study shall also review available methods of monitoring and testing for the presence of carbon monoxide and shall analyze the cost and effectiveness of alternative methods of monitoring and testing. The study shall analyze the cost and effectiveness of alternative strategies for attaining and maintaining acceptable levels of carbon monoxide in the passenger area of such vehicles. Within one year the Administrator shall report to the Congress respecting the results of such study.

"(b) For the purpose of this section, the term 'sustained-use motor vehicle' means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including buses, taxicabs, and police vehicles."

CONTINUING COMPREHENSIVE STUDIES AND INVESTIGATIONS BY NATIONAL ACADEMY OF SCIENCES

Section 403(f) of Pub. L. 95-95 provided that: "The Administrator of the Environmental Protection Agency shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct continuing comprehensive studies and investigations of the effects on public health and welfare of emissions subject to section 202(a) of the Clean Air Act [subsec. (a) of this section] (including sulfur compounds) and the technological feasibility of meeting emission standards required to be prescribed by the Administrator by section 202(b) of such Act [subsec. (b) of this section]. The Administrator shall report to the Congress within six months of the date of enactment of this section [Aug. 7, 1977] and each year thereafter regarding the status of the contractual arrangements and conditions necessary to implement this paragraph."

STUDY ON EMISSION OF SULFUR-BEARING COMPOUNDS FROM MOTOR VEHICLES AND MOTOR VEHICLE AND AIRCRAFT ENGINES

Section 403(g) of Pub. L. 95-95 provided that: "The Administrator of the Environmental Protection Agency shall conduct a study and report to Congress by the date one year after the date of the enactment of this section [Aug. 7, 1977], on the emission of sulfur-bearing compounds from motor vehicles and motor vehicle engines and aircaft engines. Such study and report shall include but not be limited to a review of the effects of such emissions on public health and welfare and an analysis of the costs and benefits of alternatives to reduce or eliminate such emissions (including desulfurization of fuel, short-term allocation of low sulfur crude oil, technological devices used in conjunction with current engine technologies, alternative engine technologies, and other methods) as may be required to achieve any proposed or promulgated emission standards for sulfur compounds."

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7408, 7417, 7522, 7525, 7541, 7543, 7545, 7546, 7548, 7549, 7550, 7607, 7608, 7617, 7623 of this title; title 15 sections 1410, 2002.

§ 7522. Prohibited acts

(a) Enumerated prohibitions

The following acts and the causing thereof are prohibited—

(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the sale or the offering for sale, or the introduction, or delivery for introduction, into commerce, or (in the case of any person, except as provided by regulation of the Administrator), the importation into the United States of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this part which are applicable to such vehicle or engine unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under regulations prescribed under this part (except as provided in subsection (b) of this section);

(2) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information, required under section 7542 of this title or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 7525(c) of this title;

(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter following its sale and delivery to the ultimate purchaser; or

(4) for any manufacturer of a new motor vehicle or new motor vehicle engine subject to standards prescribed under section 7521 of this title—

(A) to sell or lease any such vehicle or engine unless such manufacturer has complied with the requirements of section 7541 (a) and (b) of this title with respect to such vehicle or engine, and unless a label or tag is affixed to such vehicle or engine in accordance with section 7541(c)(3) of this title,

(B) to fail or refuse to comply with the requirements of section 7541 (c) or (e) of this title,

(C) except as provided in subsection (c)(3) of section 7541 of this title, to provide directly

or indirectly in any communication to the ultimate purchaser or any subsequent purchaser that the coverage of any warranty under this chapter is conditioned upon use of any part, component, or system manufactured by such manufacturer or any person acting for such manufacturer or under his control, or conditioned upon service performed by any such person, or

(D) to fail or refuse to comply with the terms and conditions of the warranty under section 7541(a) or (b) of this title with respect to any vehicle.

No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alteration of such element) shall be treated as a prohibited act under such paragraph (3) if such action is in accordance with section 7549 of this title. Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term "manufacturer parts" means, with respect to a motor vehicle engine, parts produced or sold by the manufacturer of the motor vehicle or motor vehicle engine.

(b) Exemptions; refusal to admit vehicle or engine into United States; vehicles or engines intended for export

(1) The Administrator may exempt any new motor vehicle or new motor vehicle engine, from subsection (a) of this section, upon such terms and conditions as he may find necessary for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(2) A new motor vehicle or new motor vehicle engine offered for importation or imported by any person in violation of subsection (a) of this section shall be refused admission into the United States, but the Secretary of the Treasury and the Administrator may, by joint regulation, provide for deferring final determination as to admission and authorizing the delivery of such a motor vehicle or engine offered for import to the owner or consignee thereof upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or engine will be brought into conformity with the standards, requirements, and limitations applicable to it under this part. The Secretary of the Treasury shall, if a motor vehicle or engine is finally refused admission under this paragraph, cause disposition thereof in accordance with the customs laws unless it is exported, under regulations prescribed by such Secretary, within ninety days of the date of notice of such refusal or such additional time as may be permitted pursuant to such regulations, except that disposition in accordance with the customs laws may not be made in such manner as may result, directly or indirectly, in the sale, to the ultimate consumer, of a new motor vehicle or new motor vehicle engine that fails to comply with applicable standards of the Administrator under this part.

(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall be subject to the provisions of subsection (a) of this section, except that if the country which is to receive such vehicle or engine has emission standards which differ from the standards prescribed under section 7521 of this title, then such vehicle or engine shall comply with the standards of such country which is to receive such vehicle or engine.

(c) Exemption to permit modification of emission control device or system

Upon application therefore, the Administrator may exempt from subsection (a)(3) of this section any vehicles (or class thereof) manufactured before the 1974 model year from subsection (a)(3) of this section[1] for the purpose of permitting modifications to the emission control device or system of such vehicle in order to use fuels other than those specified in certification testing under section 7525(a)(1) of this title, if the Administrator, on the basis of information submitted by the applicant, finds that such modification will not result in such vehicle or engine not complying with standards under section 7521 of this title applicable to such vehicle or engine. Any such exemption shall identify (1) the vehicle or vehicles so exempted, (2) the specific nature of the modification, and (3) the person or class of persons to whom the exemption shall apply.

(July 14, 1955, ch. 360, title II, § 203, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 993, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, §§ 7(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1693, 1705, 1713; Aug. 7, 1977, Pub. L. 95-95, title II, §§ 206, 211(a), 218(a), (d), 219(a), (b), 91 Stat. 755, 757, 761, 762; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(66)-(68), 91 Stat. 1403.)

CODIFICATION

Section was formerly classified to section 1857f-2 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-190, § 14(a)(68), in closing material substituted "section 7549 of this title." for "section 7549 of this title".

Pub. L. 95-95, §§ 206, 211(a), 218(a), 219(a), (b), added "or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 7525(c) of this title" in par. (2), designated existing provisions of par. (3) as subpar. (A) and added subpar. (B), added subpars. (C) and (D) in par. (4), and, following par. (4), added provisions that no action with respect to any element of design referred to in par. (3) (including adjustment or alteration of such element) be treated as a prohibited act under par. (3) if the action is in accordance with section 7549 of this title and that nothing in par. (3) be construed to require the use of manufacturer parts in maintaining or repairing motor vehicles or motor vehicle engines.

Subsec. (a)(3)(B). Pub. L. 95-190, § 14(a)(66), substituted "purchaser;" for "purchaser,".

Subsec. (a)(4)(C). Pub. L. 95-190, § 14(a)(67), added "or" following "such person,".

Subsec. (b)(3). Pub. L. 95-95, § 218(d), substituted "section 7521 of this title" for "subsection (a) of this

[1] So in original.

section" and "country which is to receive such vehicle or engine" for "country of export".

1970—Subsec. (a)(1). Pub. L. 91-604, § 7(a)(1), struck out reference to the manufacture of new motor vehicles or new motor vehicle engines for sale, inserted provision for issuance by the Administrator of regulations regarding exceptions in the case of importation of new motor vehicles or new motor vehicle engines, and substituted "importation" into the United States of such units for "importation for sale or resale" into the United States of such units.

Subsec. (a)(2). Pub. L. 91-604, § 7(a)(2), substituted "section 208" for "section 207", both of which, for purposes of codification, are translated as "section 7542 of this title".

Subsec. (a)(3). Pub. L. 91-604, §§ 7(a)(3), 11(a)(2)(A), substituted "part" for "subchapter" and added provisions prohibiting the knowing removal or inoperation by manufacturers or dealers of devices or elements of design after sale and delivery to the ultimate purchaser.

Subsec. (a)(4). Pub. L. 91-604, § 7(a)(4), added subsec. (a)(4).

Subsec. (b)(1). Pub. L. 91-604, §§ 7(a)(5), 15(c)(2), struck out reference to the exemption of a class of new motor vehicles or new motor vehicle engines, struck out the protection of the public health and welfare from the enumeration of purposes for which exemptions may be made, and substituted "Administrator" for "Secretary".

Subsec. (b)(2). Pub. L. 91-604, §§ 7(a)(6), 11(a)(2)(A), 15(c)(2), substituted "Administrator" for "Secretary of Health, Education, and Welfare", "importation or imported by any person" for "importation by a manufacturer", and "part" for "subchapter".

Subsec. (b)(3). Pub. L. 91-604, § 7(a)(7)(A), added provision that, if the country of export has emission standards which differ from the standards prescribed under subsec. (a), such vehicle or engine must comply with the standards of such country of export.

Subsec. (c). Pub. L. 91-604, § 7(a)(7)(B), added subsec. (c).

1967—Subsec. (a). Pub. L. 90-148 substituted "conformity with regulations prescribed under this subchapter" for "conformity with regulations prescribed under section 7521 of this title" in par. (1).

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Modification or Rescission of Rules, Regulations, Orders, Determinations, Contracts, Certifications, Authorizations, Delegations, and Other Actions

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Section Referred to in Other Sections

This section is referred to in sections 7523, 7524, 7549, 7550 of this title.

§ 7523. Actions to restrain violations

(a) Jurisdiction

The district courts of the United States shall have jurisdiction to restrain violations of section 7522(a) of this title.

(b) Actions brought by or in name of United States; subpenas

Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpenas for witnesses who are required to attend a district court in any district may run into any other district.

(July 14, 1955, ch. 360, title II, § 204, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(b), 84 Stat. 1694; Aug. 7, 1977, Pub. L. 95-95, title II, § 218(b), 91 Stat. 761.)

Codification

Section was formerly classified to section 1857f-3 of this title.

Amendments

1977—Subsec. (a). Pub. L. 95-95 struck out "paragraph (1), (2), (3), or (4)" following "restrain violations of".

1970—Subsec. (a). Pub. L. 91-604 inserted reference to par. (4) of section 7522(a) of this title.

1967—Pub. L. 90-148 reenacted section without change.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Pending Actions and Proceedings

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7524. Penalties

Any person who violates paragraph (1), (2), or (4) of section 7522(a) of this title or any manufacturer, dealer, or other person who violates paragraph (3)(A) of section 7522(a) of this title shall be subject to a civil penalty of not more than $10,000. Any person who violates paragraph (3)(B) of such section 7522(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 7522(a) of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.

(July 14, 1955, ch. 360, title I, § 205, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L.

91-604, § 7(c), 84 Stat. 1694; Aug. 7, 1977, Pub. L. 95-95, title II, § 219(c), 91 Stat. 762.)

CODIFICATION

Section was formerly classified to section 1857f-4 of this title.

AMENDMENTS

1977—Pub. L. 95-95 substituted "Any person who violates paragraph (1), (2), or (4) of section 7522(a) of this title, or any manufacturer, dealer, or other person who violates paragraph (3)(A) of section 7522(a) of this title" for "Any person who violates paragraph (1), (2), (3), or (4) of section 7522(a) of this title" in the provisions covering the civil penalty of $10,000, and added provisions for a civil penalty of not more than $2,500 for violations of par. (3)(B) of section 7522(a) of this title.

1970—Pub. L. 91-604 increased the upper limit of the allowable fine from "$1,000" to "$10,000".

1967—Pub. L. 90-148 reenacted section without change.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7549 of this title.

§ 7525. Motor vehicle and motor vehicle engine compliance testing and certification

(a) Testing and issuance of certificate of conformity

(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 7521 of this title. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe. In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 7521 of this title for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life (as determined under section 7521(d) of this title) with the regulations prescribed under section 7521 of this title.

(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 7521(b) of this title. If the Administrator finds on the basis of such tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

(3)(A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 7521(a)(4) of this title.

(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.

(b) Testing procedures; hearing; judicial review; additional evidence

(1) In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued, the Administrator is authorized to test such vehicles or engines. Such tests may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer.

(2)(A)(i) If, based on tests conducted under paragraph (1) on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued and with the requirements of section 7521(a)(4) of this title, he may suspend or revoke such certificate in whole or in part, and shall so notify the manufacturer. Such suspension or revocation shall apply in the case of any new motor vehicles or new motor vehicle engines manufactured after the date of such notification (or manufactured before such date if still in the hands of the manufacturer), and shall apply until such time as the Administrator finds that vehicles and engines manufactured by the manufacturer do conform to such regulations and requirements. If, during any period of suspension or revocation, the Administrator finds that

a vehicle or engine actually conforms to such regulations and requirements, he shall issue a certificate of conformity applicable to such vehicle or engine.

(ii) If, based on tests conducted under paragraph (1) on any new vehicle or engine, the Administrator determines that such vehicle or engine does not conform with such regulations and requirements, he may suspend or revoke such certificate insofar as it applies to such vehicle or engine until such time as he finds such vehicle or engine actually so conforms with such regulations and requirements, and he shall so notify the manufacturer.

(B)(i) At the request of any manufacturer the Administrator shall grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied, and make a determination on the record with respect to any suspension or revocation under subparagraph (A); but suspension or revocation under subparagraph (A) shall not be stayed by reason of such hearing.

(ii) In any case of actual controversy as to the validity of any determination under clause (i), the manufacturer may at any time prior to the 60th day after such determination is made file a petition with the United States court of appeals for the circuit wherein such manufacturer resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which the Administrator based his determination, as provided in section 2112 of title 28.

(iii) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(iv) Upon the filing of the petition referred to in clause (ii), the court shall have jurisdiction to review the order in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter.

(c) Inspection

For purposes of enforcement of this section, officers or employees duly designated by the Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are authorized (1) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the purpose of conducting tests of vehicles or engines in the hands of the manufacturer, or (2) to inspect at reasonable times, records, files, papers, processes, controls, and facilities used by such manufacturer in conducting tests under regulations of the Administrator. Each such inspection shall be commenced and completed with reasonable promptness.

(d) Rules and regulations

The Administrator shall by regulation establish methods and procedures for making tests under this section.

(e) Publication of test results

The Administrator shall announce in the Federal Register and make available to the public the results of his tests of any motor vehicle or motor vehicle engine submitted by a manufacturer under subsection (a) of this section as promptly as possible after December 31, 1970, and at the beginning of each model year which begins thereafter. Such results shall be described in such nontechnical manner as will reasonably disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested in meeting the standards prescribed under section 7521 of this title.

(f) High altitude regulations

(1) All light duty vehicles and engines manufactured during or after model year 1984 shall comply with the requirements of section 7521 of this title regardless of the altitude at which they are sold.

(2) By October 1, 1978, the Administrator shall report to the Congress on the economic impact and technological feasibility of the requirements found in subparagraph (1) of this subsection. The report is also to evaluate the technological feasibility and the health consequences of separate proportional emission standards for light duty vehicles and engines in high altitude areas that would reflect a comparable percentage of reduction in emissions to that achieved by light duty vehicles and engines in low altitude areas.

(g) Nonconformance penalty

(1) In the case of any class or category of heavy-duty vehicles or engines to which a standard promulgated under section 7521(a) of this title applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) of this section and shall not be suspended or revoked under subsection (b) of this section for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing. In the case of motorcycles to which such a standard applies, such a certificate may be issued notwithstanding such failure if the manufacturer pays such a penalty.

(2) No certificate of conformity may be issued under paragraph (1) with respect to any class

or category of vehicle or engine if the degree by which the manufacturer fails to meet any standard promulgated under section 7521(a) of this title with respect to such class or category exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than one year after August 7, 1977.

(3) The regulations promulgated under paragraph (1) shall, not later than one year after August 7, 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

(A) may vary from pollutant-to-pollutant;

(B) may vary by class or category or vehicle or engine;

(C) shall take into account the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 7521 of this title;

(D) shall be increased periodically in order to create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction (including any such disadvantage arising from the application of paragraph (4)).

(4) In any case in which a certificate of conformity has been issued under this subsection, any warranty required under section 7541(b)(2) of this title and any action under section 7541(c) of this title shall be required to be effective only for the emission levels which the Administrator determines that such certificate was issued and not for the emission levels required under the applicable standard.

(5) The authorities of section 7542(a) of this title shall apply, subject to the conditions of section 7542(b) of this title, for purposes of this subsection.

(July 14, 1955, ch. 360, title II, § 206, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1694, and amended Aug. 7, 1977, Pub. L. 95-95, title II, §§ 213(a), 214(b), (c), 220, 224(e), 91 Stat. 758-760, 762, 768; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(69), 91 Stat. 1403.)

CODIFICATION

Section was formerly classified to section 1857f-5 of this title.

PRIOR PROVISIONS

A prior section 206 of Act July 14, 1955, which was classified to a prior section 1857f-5 of this title and related to the testing of motor vehicles and motor vehicle engines, was repealed by Pub. L. 91-604.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-95, § 220, added provisions covering testing by small manufacturers.

Subsec. (a)(3). Pub. L. 95-95, § 214(b), added subsec. (a)(3).

Subsec. (b)(2)(A)(i). Pub. L. 95-95, § 214(c)(1), (2), substituted "certificate of conformity was issued and with the requirements of section 7521(a)(4) of this title, he may suspend" for "certificate of conformity was issued, he may suspend" and "such regulations and requirements" for "such regulations".

Subsec. (b)(2)(A)(ii). Pub. L. 95-95, § 214(c)(2), substituted "such regulations and requirements" for "such regulations".

Subsec. (f). Pub. L. 95-95, § 213(a), added subsec. (f).

Subsec. (g). Pub. L. 95-95, § 224(e), added subsec. (g).

Subsec. (g)(3)(D). Pub. L. 95-190 added "shall" preceding "be".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

EFFECTIVE DATE

Section 8(b) of Pub. L. 91-604 provided that: "The amendments made by this section [enacting this section and section 7541 of this title] shall not apply to vehicles or engines imported into the United States before the sixtieth day after the date of enactment of this Act [Dec. 31, 1970]."

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7414, 7521, 7522, 7541, 7545, 7550, 7607 of this title; title 15 section 2003.

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

§ 7541. Compliance by vehicles and engines in actual use

(a) Warranty; certification; payment of replacement costs of parts, devices, or components designed for emission control

(1) Effective with respect to vehicles and engines manufactured in model years beginning more than 60 days after December 31, 1970, the manufacturer of each new motor vehicle and new motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that such vehicle or engine is (A) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 7521 of this title, and (B) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable regulations for its

useful life (as determined under section 7521(d) of this title).

(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 7521 of this title. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b) of this section. The Administrator shall promulgate such regulations no later than two years following August 7, 1977.

(3) The cost of any part, device, or component of any light-duty vehicle that is designed for emission control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for replacement during the useful life of the vehicle in order to maintain compliance with regulations under section 7521 of this title, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 percent of the suggested retail price of such vehicle, shall be borne or reimbursed at the time of replacement by the vehicle manufacturer and such replacement shall be provided without cost to the ultimate purchaser, subsequent purchaser, or dealer. The term "designed for emission control" as used in the preceding sentence means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions (not including those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control).

(b) Testing methods and procedures

If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 7521(d) of this title), each vehicle and engine to which regulations under section 7521 of this title apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 7525(a)(1) of this title, then—

(1) he shall establish such methods and procedures by regulation, and

(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 7521 of this title applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph (2). The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3) of this section,

(B) it fails to conform at any time during its useful life (as determined under section 7521(d) of this title) to the regulations prescribed under section 7521 of this title, and

(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law,

then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer. No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2) of this section.

For purposes of the warranty under this subsection, for the period after twenty-four months or twenty-four thousand miles (whichever first occurs) the term "emission control device or system" means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968.

(c) Nonconforming vehicles; plan for remedying nonconformity; instructions for maintenance and use; label or tag

Effective with respect to vehicles and engines manufactured during model years beginning more than 60 days after December 31, 1970—

(1) If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 7521 of this title, when in actual use throughout their useful life (as determined under section 7521(d) of this title), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer. If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing the Administrator withdraws such determination of nonconformity, he shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt

notification of such nonconformity in accordance with paragraph (2).

(2) Any notification required by paragraph (1) with respect to any class or category of vehicles or engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as the Administrator may by regulation require.

(3)(A) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine written instructions for the proper maintenance and use of the vehicle or engine by the ultimate purchaser and such instructions shall correspond to regulations which the Administrator shall promulgate. The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a)(2) of this section.

(B) The instruction under subparagraph (A) of this paragraph shall not include any condition on the ultimate purchaser's using, in connection with such vehicle or engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name; or directly or indirectly distinguishing between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship, and service performed by independent automotive repair facilities with which such manufacturer has no commercial relationship; except that the prohibition of this subsection may be waived by the Administrator if—

(i) the manufacturer satisfies the Administrator that the vehicle or engine will function properly only if the component or service so identified is used in connection with such vehicle or engine, and

(ii) the Administrator finds that such a waiver is in the public interest.

(C) In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 7521 of this title. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation

(d) Dealer costs borne by manufacturer

Any cost obligation of any dealer incurred as a result of any requirement imposed by subsection (a), (b), or (c) of this section shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(e) Cost statement

If a manufacturer includes in any advertisement a statement respecting the cost or value of emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 7611 of this title.

(f) Inspection after sale to ultimate purchaser

Any inspection of a motor vehicle or a motor vehicle engine for purposes of subsection (c)(1) of this section, after its sale to the ultimate purchaser, shall be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any State or local inspection program.

(g) Replacement and maintenance costs borne by owner

For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the terms of the last three sentences of subsection (a)(1) of this section), unless such part, item, or device is covered by any warranty not mandated by this chapter.

(h) Dealer certification

(1) Upon the sale of each new light-duty motor vehicle by a dealer, the dealer shall furnish to the purchaser a certificate that such motor vehicle conforms to the applicable regulations under section 7521 of this title, including notice of the purchaser's rights under paragraph (2).

(2) If at any time during the period for which the warranty applies under subsection (b) of this section, a motor vehicle fails to conform to the applicable regulations under section 7521 of this title as determined under subsection (b) of this section such nonconformity shall be remedied by the manufacturer at the cost of the manufacturer pursuant to such warranty as provided in subsection (b)(2) of this section (without regard to subparagraph (C) thereof).

(3) Nothing in section 7543(a) of this title shall be construed to prohibit a State from testing, or requiring testing of, a motor vehicle after the date of sale of such vehicle to the ultimate purchaser (except that no new motor vehicle manufacturer or dealer may be required to conduct testing under this paragraph).

(July 14, 1955, ch. 360, title II, § 207, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1696, and amended Aug. 7, 1977, Pub. L. 95-95, title II, §§ 205, 208-210, 212, 91 Stat. 754-756,

758; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(70)-(72), 91 Stat. 1403.)

CODIFICATION

Section was formerly classified to section 1857f-5a of this title.

PRIOR PROVISIONS

A prior section 207 of act July 14, 1955, was renumbered section 208 by Pub. L. 91-604 and is set out as section 7542 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-190, § 14(a)(70), designated provisions contained in cl. (3) of subsec. (a), formerly set out as containing cls. (1), (2), and (3), to be par. (3) of subsec. (a) after the amendment by Pub. L. 95-95, § 209(b), which designated provisions of former subsec. (a) as par. (1) and former cls. (1) and (2) as (A) and (B) of par. (1) and added a new par. (2).

Pub. L. 95-95, § 205, added cl. (3).

Subsec. (b). Pub. L. 95-95, § 209(a), (c), added provisions to par. (2) that no warranty be held invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if the part was certified as provided in subsec. (a)(2) of this section, and, following par. (2), added provisions defining the term "emission control device or system".

Subsec. (c)(3). Pub. L. 95-95, § 208, designated existing provisions as subpars. (A) and (C), added requirement for the bold face printing of a required notice on the first page of the written maintenance instructions in subpar. (A) as so designated, and added subpar. (B).

Subsec. (f). Pub. L. 95-190, § 14(a)(71), redesignated subsec. (f) as added by Pub. L. 95-95, § 212, as (h).

Subsec. (g). Pub. L. 95-95, § 210, added subsec. (g).

Subsec. (h). Pub. L. 95-190, § 14(a)(71), redesignated subsec. (f) as added by Pub. L. 95-95, § 212, as (h).

Subsec. (h)(2). Pub. L. 95-190, § 14(a)(72), substituted "determined under" for "determined and".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

EFFECTIVE DATE

Section not applicable to vehicles or engines imported into the United States before the sixtieth day after Dec. 31, 1970, see section 8(b) of Pub. L. 91-604, set out as an Effective Date note under section 7525 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7521, 7522, 7525, 7513, 7550, 7607 of this title.

§ 7542. Records and reports

(a) Manufacturer's responsibility

Every manufacturer shall establish and maintain such records, make such reports, and provide such information, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this part and regulations thereunder and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times, to have access to and copy such records.

(b) Availability to public; trade secrets

Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

(July 14, 1955, ch. 360, title II, § 208, formerly § 207, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 90-604, §§ 8(a), 10(a), 11(a)(2)(A), 15(c)(a), 84 Stat. 1694, 1700, 1705, 1713.)

CODIFICATION

Section was formerly classified to section 1857f-6 of this title.

PRIOR PROVISIONS

A prior section 208 of Act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, was renumbered section 209 by Pub. L. 91-604, and is set out as section 7543 of this title.

A prior section 208 of Act July 14, 1955, forming a part of such Act as originally enacted, was renumbered section 212 by Pub. L. 90-148, renumbered section 213 by Pub. L. 91-604, and renumbered 214 by Pub. L. 93-319, § 10, June 22, 1974, 88 Stat. 261, and is set out as section 7550 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, §§ 11(a)(2)(A), 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein and "part" for "subchapter".

Subsec. (b). Pub. L. 91-604, §§ 10(a), 15(c)(2), substituted provisions authorizing the Administrator to make available to the public any records, reports, of information obtained under subsec. (a) of this section, except those shown to the Administrator to be enti-

tled to protection as trade secrets, for provisions that all information reported or otherwise obtained by the Secretary or his representative pursuant to subsec. (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, be considered confidential for the purpose of such section 1905, and substituted "Administrator" for "Secretary".

1967—Pub. L. 90-148 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7414, 7522, 7525, 7550 of this title.

§ 7543. State standards

(a) Prohibition

No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

(b) Waiver

(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

(A) the determination of the State is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 7521(a) of this title.

(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standard shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this subchapter.

(c) Certification of vehicle parts or engine parts

Whenever a regulation with respect to any motor vehicle part or motor vehicle engine part is in effect under section 7541(a)(2) of this title, no State or political subdivision thereof shall adopt or attempt to enforce any standard or any requirement of certification, inspection, or approval which relates to motor vehicle emissions and is applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b) of this section.

(d) Control, regulation, or restrictions on registered or licensed motor vehicles

Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

(July 14, 1955, ch. 306, title II, § 209, formerly § 208, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1705, 1713; Aug. 7, 1977, Pub. L. 95-95, title II, §§ 207, 221, 91 Stat. 755, 762.)

CODIFICATION

Section was formerly classified to section 1857f-6a of this title.

PRIOR PROVISIONS

A prior section 209 of Act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, was renumbered section 210 by Pub. L. 91-604 and is set out as section 7544 of this title.

A prior section 209 of Act July 14, 1955, ch. 360, title II, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 995, relating to appropriations for the fiscal years ending June 30, 1966, 1967, 1968, and 1969, was set out as section 1857f-8 of this title and was repealed by Pub. L. 89-675, § 2(b) Oct. 15, 1966, 80 Stat. 954.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-95, § 207, designated existing provisions as par. (1), substituted "March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards" for "March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling the extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 7521(a) of this title" in par. (1) as so designated, added subpars. (A), (B), and (C) in par. (1) as so designated, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-95, § 221, added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-95, § 221, redesignated subsec. (c) as (d).

1970—Subsec. (a). Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (c). Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or

other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7416, 7507, 7541, 7545 of this title; title 15 section 2002.

§ 7544. State grants

The Administrator is authorized to make grants to appropriate State agencies in an amount up to two-thirds of the cost of developing and maintaining effective vehicle emission devices and systems inspection and emission testing and control programs, except that—

(1) no such grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program;

(2) no such grant shall be made unless the Secretary of Transportation has certified to the Administrator that such program is consistent with any highway safety program developed pursuant to section 402 of title 23; and

(3) no such grant shall be made unless the program includes provisions designed to insure that emission control devices and systems on vehicles in actual use have not been discontinued or rendered inoperative.

Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made.

(July 14, 1955, ch. 306, title II, § 210, formerly § 209, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, and renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(b), 84 Stat. 1694, 1700; Aug. 7, 1977, Pub. L. 95-95, title II, § 204, 91 Stat. 754.)

CODIFICATION

Section was formerly classified to section 1857f-6b of this title.

PRIOR PROVISIONS

A prior section 210 of Act July 14, 1955, was renumbered section 211 by Pub. L. 91-604 and is set out as section 7545 of this title.

AMENDMENTS

1977—Pub. L. 95-95 added provision allowing grants to be made by way of reimbursement in any case in which amounts have been expended by States before the date on which the grants were made.

1970—Pub. L. 91-604 substituted provisions authorizing the Administrator to make grants to appropriate State agencies for the development and maintenance of effective vehicle emission devices and systems inspection and emission testing and control programs, for provisions authorizing the Secretary to make grants to appropriate State air pollution control agencies for the development of meaningful uniform motor vehicle emission device inspection and emission testing programs.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7545. Regulation of fuels

(a) Authority of Administrator to regulate

The Administrator may by regulation designate any fuel or fuel additive and, after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel or additive may sell, offer for sale, or introduce into commerce such fuel or additive unless the Administrator has registered such fuel or additive in accordance with subsection (b) of this section.

(b) Registration requirement

(1) For the purpose of registration of fuels and fuel additives, the Administrator shall require—

(A) the manufacturer of any fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of any additive in the fuel; and the purpose-in-use of any such additive; and

(B) the manufacturer of any additive to notify him as to the chemical composition of such additive.

(2) For the purpose of registration of fuels and fuel additives, the Administrator may also require the manufacturer of any fuel or fuel additive—

(A) to conduct tests to determine potential public health effects of such fuel or additive (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects), and

(B) to furnish the description of any analytical technique that can be used to detect and measure any additive in such fuel, the recommended range of concentration of such additive, and the recommended purpose-in-use of such additive, and such other information as is reasonable and necessary to determine the emissions, resulting from the use of the fuel or additive contained in such fuel, the effect of such fuel or additive on the emission control performance of any vehicle or vehicle engine, or the extent to which such emissions affect the public health or welfare.

Tests under subparagraph (A) shall be conducted in conformity with test procedures and protocols established by the Administrator. The result of such tests shall not be considered confidential.

(3) Upon compliance with the provision of this subsection, including assurances that the Administrator will receive changes in the information required, the Administrator shall register such fuel or fuel additive.

(c) Offending fuels and fuel additives; control; prohibition

(1) The Administrator may, from time to time on the basis of information obtained under subsection (b) of this section or other information available to him, by regulation, control or prohibit the manufacture, introduction into com-

merce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine (A) if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such regulation to be promulgated.

(2)(A) No fuel, class of fuels, or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (A) of paragraph (1) except after consideration of all relevant medical and scientific evidence available to him, including consideration of other technologically or economically feasible means of achieving emission standards under section 7521 of this title.

(B) No fuel or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (B) of paragraph (1) except after consideration of available scientific and economic data, including a cost benefit analysis comparing emission control devices or systems which are or will be in general use and require the proposed control or prohibition with emission control devices or systems which are or will be in general use and do not require the proposed control or prohibition. On request of a manufacturer of motor vehicles, motor vehicle engines, fuels, or fuel additives submitted within 10 days of notice of proposed rulemaking, the Administrator shall hold a public hearing and publish findings with respect to any matter he is required to consider under this subparagraph. Such findings shall be published at the time of promulgation of final regulations.

(C) No fuel or fuel additive may be prohibited by the Administrator under paragraph (1) unless he finds, and publishes such finding, that in his judgment such prohibition will not cause the use of any other fuel or fuel additive which will produce emissions which will endanger the public health or welfare to the same or greater degree than the use of the fuel or fuel additive proposed to be prohibited.

(3)(A) For the purpose of obtaining evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

(B) In obtaining information under subparagraph (A), section 7607(a) of this title (relating to subpenas) shall be applicable.

(4)(A) Except as otherwise provided in subparagraph (B) or (C), no State (or political subdivision thereof) may prescribe or attempt to enforce, for purposes of motor vehicle emission control, any control or prohibition respecting use of a fuel or fuel additive in a motor vehicle or motor vehicle engine—

(i) if the Administrator has found that no control or prohibition under paragraph (1) is necessary and has published his finding in the Federal Register, or

(ii) if the Administrator has prescribed under paragraph (1) a control or prohibition applicable to such fuel or fuel additive, unless State prohibition or control is identical to the prohibition or control prescribed by the Administrator.

(B) Any State for which application of section 7543(a) of this title has at any time been waived under section 7543(b) of this title may at any time prescribe and enforce, for the purpose of motor vehicle emission control, a control or prohibition respecting any fuel or fuel additive.

(C) A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 7410 of this title so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements.

(d) Penalty

Any person who violates subsection (a) or (f) of this section or the regulations prescribed under subsection (c) of this section or who fails to furnish any information required by the Administrator under subsection (b) of this section shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications.

(e) Testing of fuels and fuel additives

(1) Not later than one year after August 7, 1977, and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations which implement the authority under subsection (b)(2)(A) and (B) of this section with respect to each fuel or fuel additive which is registered on the date of promulgation of such regulations and with respect to each fuel or fuel additive for which an application for registration is filed thereafter.

(2) Regulations under subsection (b) of this section to carry out this subsection shall require that the requisite information be provided to the Administrator by each such manufacturer—

(A) prior to registration, in the case of any fuel or fuel additive which is not registered

on the date of promulgation of such regulations; or

(B) not later than three years after the date of promulgation of such regulations, in the case of any fuel or fuel additive which is registered on such date.

(3) In promulgating such regulations, the Administrator may—

(A) exempt any small business (as defined in such regulations) from or defer or modify the requirements of, such regulations with respect to any such small business;

(B) provide for cost-sharing with respect to the testing of any fuel or fuel additive which is manufactured or processed by two or more persons or otherwise provide for shared responsibility to meet the requirements of this section without duplication; or

(C) exempt any person from such regulations with respect to a particular fuel or fuel additive upon a finding that any additional testing of such fuel or fuel additive would be duplicative of adequate existing testing.

(f) New fuels and fuel additives

(1) Effective upon March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 7525 of this title.

(2) Effective November 30, 1977, it shall be unlawful for any manufacturer of any fuel to introduce into commerce any gasoline which contains a concentration of manganese in excess of .0625 grams per gallon of fuel, except as otherwise provided pursuant to a waiver under paragraph (4).

(3) Any manufacturer of any fuel or fuel additive which prior to March 31, 1977, and after January 1, 1974, first introduced into commerce or increased the concentration in use of a fuel or fuel additive that would otherwise have been prohibited under paragraph (1) if introduced on or after March 31, 1977 shall, not later than September 15, 1978, cease to distribute such fuel or fuel additive in commerce. During the period beginning 180 days after August 7, 1977, and before September 15, 1978, the Administrator shall prohibit, or restrict the concentration of any fuel additive which he determines will cause or contribute to the failure of an emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified under section 7525 of this title.

(4) The Administrator, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under paragraph (1) or (3) of this subsection or the limitation specified in paragraph (2) of this subsection, if he determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 7525 of this title. If the Administrator has not acted to grant or deny an application under this paragraph within one hundred and eighty days of receipt of such application, the waiver authorized by this paragraph shall be treated as granted.

(5) No action of the Administrator under this section may be stayed by any court pending judicial review of such action.

(g) Small refineries

(1) For the purposes of this subsection:

(A) The terms "gasoline" and "refinery" have the meaning provided under regulations of the Administrator promulgated under this section.

(B) The term "small refinery" means a refinery or a portion of refinery producing gasoline—

(i) the gasoline producing capacity of which was in operation or under construction at any time during the one-year period immediately preceding October 1, 1976, and

(ii) which has a crude oil or bona fide feed stock capacity (as determined by the Administrator) of 50,000 barrels per day or less, and

(iii) which is owned or controlled by a refiner with a total combined crude oil or bona fide feed stock capacity (as determined by the Administrator) of 137,500 barrels per day or less.

(2) No regulations of the Administrator under this section (or any amendment or revision thereof) respecting the control or prohibition of lead additives in gasoline shall require a small refinery prior to October 1, 1982, to reduce the average lead content per gallon of gasoline refined at such refinery below the applicable amount specified in the table below:

If the average gasoline production of the small refinery for the immediately preceding calendar year (or, in the case of refineries under construction, half the designed crude oil capacity) was (in barrels per day):	The applicable amount is (in grams per gallon)
5,000 or under	2.65.
5,001 to 10,000	2.15.
10,001 to 15,000	1.65.
15,001 to 20,000	1.30.
20,001 to 25,000	.80.
25,001 or over	As prescribed by the Administrator, but not greater than 0.80.

The Administrator may promulgate such regulations as he deems appropriate with respect to the reduction of the average lead content of gasoline refined by small refineries on and after October 1, 1982, taking into account the experience under the preceding provisions of this paragraph.

(3) Effective on August 7, 1977, the regulations of the Administrator under this section respecting fuel additives (40 CFR part 80) shall be deemed amended to comply with the requirement contained in paragraph (2).

(4) Nothing in this section shall be construed to preempt the right of any State to take action as permitted by subsection (c)(4) of this section.

(July 14, 1955, ch. 360, title II, § 211, formerly § 210, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, and renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 9(a), 84 Stat. 1694, 1698; Nov. 18, 1971, Pub. L. 92-157, title III, § 302(d), (e), 85 Stat. 464; Aug. 7, 1977, Pub. L. 95-95, title II, §§ 222, 223, title IV, 401(e), 91 Stat. 762, 764 791; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(73), (74), 91 Stat. 1403, 1404.)

CODIFICATION

Section was formerly classified to section 1857f-6c of this title.

PRIOR PROVISIONS

A prior section 211 of act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, providing for a national emissions standards study, was set out as section 1857f-6d of this title and was repealed by section 8(a) of Pub. L. 91-604.

AMENDMENTS

1977—Subsec. (c)(1)(A). Pub. L. 95-95, § 401(e), substituted "if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger" for "if any emission products of such fuel or fuel additive will endanger".

Subsec. (d). Pub. L. 95-95, § 222(b), added "or (f)" following "Any person who violates subsection (a)".

Subsecs. (e), (f). Pub. L. 95-95, § 222(a), added subsecs. (e) and (f).

Subsec. (f)(2). Pub. L. 95-190, § 14(a)(73), added provision relating to waiver under par. (4) of this subsec., and struck out "first" preceding "introduce".

Subsec. (f)(4). Pub. L. 95-190, § 14(a)(74), added provision relating to applicability of limitation specified under par. (2) of this subsection.

Subsec. (g). Pub. L. 95-95, § 223, added subsec. (g).

1971—Subsec. (c)(3)(A). Pub. L. 92-157, § 302(d), substituted "purpose of obtaining" for "purpose of".

Subsec. (d). Pub. L. 92-157, § 302(e), substituted "subsection (b)" for "subsection (c)" where appearing the second time.

1970—Subsec. (a). Pub. L. 91-604, § 9(a), substituted "Administrator" for "Secretary" as the registering authority, added references to fuel additives, and substituted the selling, offering for sale, and introduction into commerce of fuel or fuel additives, for the delivery for introduction into interstate commerce or delivery to another person who can reasonably be expected to deliver fuel into interstate commerce.

Subsec. (b). Pub. L. 91-604, § 9(a), designated existing provisions as pars. (1) and (3), added par. (2), and substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (c). Pub. L. 91-604, § 9(a), substituted provisions covering the control or prohibition of offending fuels and fuel additives, for provisions covering trade secrets and substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (d). Pub. L. 91-604, § 9(a), added references to failure to obey regulations prescribed under subsec. (c) and failure to furnish information required by the Administrator under subsec. (c), increased the daily civil penalty from $1,000 to $10,000 and substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, § 9(a), struck out subsec. (e) which directed the various United States Attorneys to prosecute for the recovery of forfeitures.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7416, 7604, 7607, 7617 of this title.

§ 7546. Low-emission vehicles

(a) Definitions

For the purpose of this section—

(1) The term "Board" means the Low-Emission Vehicle Certification Board.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "motor vehicle" means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

(4) The term "low-emission vehicle" means any motor vehicle which—

(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 7521 of this title at the time of procurement to that type of vehicle; and

(B) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 7521 of this title at the time of procurement to that type of vehicle.

(5) The term "retail price" means (A) the maximum statutory price applicable to any class or model of motor vehicle; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any class or model of motor vehicle.

(b) Low-Emission Vehicle Certification Board

(1) There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Traffic Safety Administration in the Department of Transportation, the Administrator of

General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

(2) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(3)(A) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 by section 5332 of title 5.

(B) The Chairman may fix the time and place of such meetings as may be required, but a meeting of the Board shall be called whenever a majority of its members so request.

(C) The Board is granted all other power necessary for meeting its responsibilities under this section.

(c) Determination of qualifying vehicles

The Administrator shall determine which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this section.

(d) Certification

(1) The Board shall certify any class or model of motor vehicles—

(A) for which a certification application has been filed in accordance with paragraph (3) of this subsection;

(B) which is a low-emission vehicle as determined by the Administrator; and

(C) which it determines is suitable for use as a substitute for a class or model of vehicles at that time in use by agencies of the Federal Government.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

(i) the safety of the vehicle;

(ii) its performance characteristics;

(iii) its reliability potential;

(iv) its serviceability;

(v) its fuel availability;

(vi) its noise level; and

(vii) its maintenance costs as compared with the class or model of motor vehicle for which it may be a suitable substitute.

(2) Certification under this section shall be effective for a period of one year from the date of issuance.

(3)(A) Any party seeking to have a class or model of vehicle certified under this section shall file a certification application in accordance with regulations prescribed by the Board.

(B) The Board shall publish a notice of each application received in the Federal Register.

(C) The Administrator and the Board shall make determinations for the purpose of this section in accordance with procedures prescribed by regulation by the Administrator and the Board, respectively.

(D) The Administrator and the Board shall conduct whatever investigation is necessary, including actual inspection of the vehicle at a place designated in regulations prescribed under subparagraph (A).

(E) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

(F) Within 90 days after the receipt of a properly filed certification application, the Administrator shall determine whether such class or model of vehicle is a low-emission vehicle, and within 180 days of such determination, the Board shall reach a decision by majority vote as to whether such class or model of vehicle, having been determined to be a low-emission vehicle, is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator and the Board shall each publish in the Federal Register notice of such determination or decision, including reasons therefor and in the case of the Board any dissenting views.

(e) Acquisition by Federal government in lieu of other vehicles; procurement costs; contract provisions

(1) Certified low-emission vehicles shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other vehicles if the Administrator of General Services determines that such certified vehicles have procurement costs which are no more than 150 per centum of the retail price of the least expensive class or model of motor vehicle for which they are certified substitutes.

(2) In order to encourage development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in paragraph (1) of this subsection to 200 per centum of the retail price of any class or model of motor vehicle for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an inherently low-polluting propulsion system.

(3) Data relied upon by the Board and the Administrator in determining that a vehicle is a certified low-emission vehicle shall be incorporated in any contract for the procurement of such vehicle.

(f) Priority for purchase by procuring agency

The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible certified low-emission vehicles, the procuring

agency shall give priority to (1) any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute; and (2) passenger vehicles other than buses.

(g) Waiver of statutory price limitations

For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived.

(h) Testing of emissions from certified low-emission vehicles purchased by the Federal government; procedure; recertification

The Administrator shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certification under this section was based, the Administrator shall notify the Board. Thereupon the Board shall give the supplier of such vehicles written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

(i) Authorization of appropriations

There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $5,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for each of the four succeeding fiscal years.

(j) Promulgation by Board of implementing procedures

The Board shall promulgate the procedures required to implement this section within one hundred and eighty days after December 31, 1970.

(July 14, 1955, title II, § 212, as added Dec. 31, 1970, Pub. L. 91-604, § 10(c), 84 Stat. 1700, and amended Dec. 31, 1970, Pub. L. 91-605, § 202(a), 84 Stat. 1739; Apr. 9, 1973, Pub. L. 93-15, § 1(b), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(b), 88 Stat. 265.)

CODIFICATION

Section was formerly classified to section 1857f-6e of this title.

PRIOR PROVISIONS

A prior section 212 of act July 14, 1955, was renumbered section 213 by Pub. L. 91-604 and renumbered 214 by Pub. L. 93-319, § 10, and is set out as section 7550 of this title.

AMENDMENTS

1974—Subsec. (i). Pub. L. 93-319 substituted "four" for "three" succeeding fiscal years and thus authorized appropriation of $25,000,000 for fiscal year ending June 30, 1975.

1973—Subsec. (i). Pub. L. 93-15 substituted "three" for "two" succeeding fiscal years and thus authorized appropriation of $25,000,000 for fiscal year ending June 30, 1974.

CHANGE OF NAME

National Highway Traffic Safety Administration was substituted in subsec. (b)(1) for "National Highway Safety Bureau" on authority of section 202(a) of Pub. L. 91-605.

§ 7547. Fuel economy improvement from new motor vehicles

(a)(1)[1] The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the United States Senate within one hundred and twenty days following June 22, 1974, concerning the practicability of establishing a fuel economy improvement standard of 20 per centum for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Federal Energy Administrator, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to such committees of the Congress, but such Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 7607(a) of this title to obtain necessary information.

(2) For the purpose of this section, the term "fuel economy improvement standard" means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for such manufacturer in accordance with test procedures established by the Administrator pursuant to this chapter. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.

[1] So in original. No subsec. (b) has been enacted.

(July 14, 1955, ch. 360, title II, § 213, as added June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261, and amended S. Res. 4, Feb. 4, 1977.)

CODIFICATION

Section was formerly classified to section 1857f-6f of this title.

CHANGE OF NAME

The Committee on Public Works and the Committee on Commerce of the Senate were abolished and replaced by the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate, respectively, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

FEDERAL ENERGY ADMINISTRATOR

The "Federal Energy Administrator", for purposes of this chapter, to mean the Administrator of the Federal Energy Administration established by Pub. L. 93-275, May 7, 1974, 88 Stat. 97, set out as section 761 et seq. of Title 15, Commerce and Trade, but with the term to mean any officer of the United States designated as such by the President until the Federal Energy Administrator takes office and after the Federal Energy Administration ceases to exist, see section 798 of Title 15, Commerce and Trade.

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§ 7548. Study of particulate emissions from motor vehicles

(a) Study and analysis

(1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 7521 of this title applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

(b) Report to Congress

The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) of this section not later than two years after August 7, 1977. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a) of this section.

(July 14, 1955, ch. 360, title II, § 214, as added Aug. 7, 1977, Pub. L. 95-95, title II, § 224(d), 91 Stat. 767.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

STUDY ON SUSPENDED PARTICULATE MATTER

Section 403(a) of Pub. L. 95-95 provided that: "Not later than eighteen months after the date of the enactment of this Act [Aug. 7, 1977], the Administrator of the Environmental Protection Agency, in cooperation with the National Academy of Sciences, shall study and report to Congress on (1) the relationship between the size, weight, and chemical composition of suspended particulate matter and the nature and degree of the endangerment to public health or welfare presented by such particulate matter (especially with respect to fine particulate matter) and (2) the availability of technology for controlling such particulate matter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7521 of this title.

§ 7549. High altitude performance adjustments

(a) Instruction of the manufacturer

(1) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter (including any alteration or adjustment of such element), shall be treated as not in violation of section 7522(a) of this title if such action is performed in accordance with high altitude adjustment instructions provided by the manufacturer under subsection (b) of this section and approved by the Administrator.

(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance with respect to each standard under section 7521 of this title at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice.

(b) Regulations

(1) Instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted by the manufacturer to the Administrator pursuant to regulations promulgated by the Administrator.

(2) Any knowing violation by a manufacturer of requirements of the Administrator under paragraph (1) shall be treated as a violation by such manufacturer of section 7522(a)(3) of this title for purposes of the penalties contained in section 7524 of this title.

(3) Such instructions shall provide, in addition to other adjustments, for adjustments for vehicles moving from high altitude areas to low altitude areas after the initial registration of such vehicles.

(c) Manufacturer parts

No instructions under this section respecting adjustments or modifications may require the use of any manufacturer parts (as defined in section 7522(a) of this title) unless the manufacturer demonstrates to the satisfaction of the Administrator that the use of such manufactur-

er parts is necessary to insure emission control performance.

(d) State inspection and maintenance programs

Before January 1, 1981 the authority provided by this section shall be available in any high altitude State (as determined under regulations of the Administrator under regulations promulgated before August 7, 1977) but after December 31, 1980, such authority shall be available only in any such State in which an inspection and maintenance program for the testing of motor vehicle emissions has been instituted for the portions of the State where any national ambient air quality standard for auto-related pollutants has not been attained.

(July 14, 1955, ch. 360, title II, § 215, as added Aug. 7, 1977, Pub. L. 95-95, title II, § 211(b), 91 Stat. 757, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(75), 91 Stat. 1404.)

CODIFICATION

In subsec. (d), "August 7, 1977" was substituted for "the date of enactment of this Act" to reflect the probable intent of Congress that such date of enactment meant the date of enactment of Pub. L. 95-95.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-190 substituted "December 31, 1980" for "December 31, 1981".

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7522 of this title.

§ 7550. Definitions

As used in this part—

(1) The term "manufacturer" as used in sections 7521, 7522, 7525, 7541, and 7542 of this title means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicles engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

(2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(3) Except with respect to vehicles or engines imported or offered for importation, the term "new motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term "new motor vehicle engine" means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under section 7521 of this title which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States).

(4) The term "dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

(5) The term "ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

(6) The term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia.

(July 14, 1955, ch. 360, title II, § 216, formerly § 208, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, renumbered § 212, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, renumbered § 213, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(d), 11(a)(2)(A), 84 Stat. 1694, 1703, 1705, renumbered § 214, June 22, 1974, Pub. L. 93-319, § 10, 88 Stat. 261, renumbered § 216, Aug. 7, 1977, Pub. L. 95-95, title II, § 224(d), 91 Stat. 767.)

CODIFICATION

Section was formerly classified to section 1857f-7 of this title.

AMENDMENTS

1970—Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter."

Par. (1). Pub. L. 91-604, § 10(d)(1), added reference to section 7521 of this title.

Par. (3). Pub. L. 91-604, § 10(d)(2), added the provisions which defined such terms with respect to imported vehicles or engines.

1967—Pub. L. 90-148 inserted "as used in sections 7522, 7525, 7541, and 7542 of this title" following "manufacturer" in par. (1).

§ 7551. Study and report on fuel consumption

(a) Report by Administrator of Environmental Protection Agency

Following each motor vehicle model year, the Administrator of the Environmental Protection Agency shall report to the Congress respecting the motor vehicle fuel consumption associated with the standards applicable for the immediately preceding model year.

(b) Reports by Secretary of Transportation and Secretary of Energy

The Secretary of Transportation and the Secretary of Energy shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subsection (a) of this section, separate reports respecting such fuel consumption.

(Pub. L. 95-95, title II, § 203, Aug. 7, 1977, 91 Stat. 754.)

CODIFICATION

Section was enacted as part of Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685, known as the Clean Air Act Amend-

ments of 1977, and not as part of act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685, known as the Clean Air Act, which comprises this chapter.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PART B—AIRCRAFT EMISSION STANDARDS

§ 7571. Establishment of standards

(a) Study; proposed standards; hearings; issuance of regulations

(1) Within 90 days after December 31, 1970, the Administrator shall commence a study and investigation of emissions of air pollutants from aircraft in order to determine—

(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

(B) the technological feasibility of controlling such emissions.

(2) The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.

(3) The Administrator shall hold public hearings with respect to such proposed standards. Such hearings shall, to the extent practicable, be held in air quality control regions which are most seriously affected by aircraft emissions. Within 90 days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

(b) Effective date of regulations

Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(c) Regulations which create hazards to aircraft safety

Any regulations in effect under this section on August 7, 1977, or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the President, after notice and opportunity for public hearing, on the basis of a finding by the Secretary of Transportation that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.

(July 14, 1955, ch. 360, title II, § 231, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1703, and amended Aug. 7, 1977, Pub. L. 95-95, title II, § 225, title IV, § 401(f), 91 Stat. 769, 791.)

CODIFICATION

Section was formerly classified to section 1857f-9 of this title.

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-95, § 401(f), substituted "The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare" for "Within 180 days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare".

Subsec. (c). Pub. L. 95-95, § 225, substituted "Any regulations in effect under this section on August 7, 1977, or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the President, after notice and opportunity for public hearing, on the basis of a finding by the Secretary of Transportation that any such regulation would create a hazard to aircraft safety" for "Any regulations under this section, or amendments thereto, with respect to aircraft, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for aircraft safety" and added provision that findings include a reasonably specific statement of the basis upon which the finding was made.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7458, 7572, 7607, 7617 of this title; title 49 section 1421.

§ 7572. Enforcement of standards

(a) Regulations to insure compliance with standards

The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 7571 of this title by the Administrator. The regulations of the Secretary of Transportation shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act [49 U.S.C. 1301 et

seq.] or the Department of Transportation Act [49 U.S.C. 1651 et seq.]. Such Secretary shall insure that all necessary inspections are accomplished, and,[1] may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

(b) Notice and appeal rights

In any action to amend, modify, suspend, or revoke a certificate in which violation of an emission standard prescribed under section 7571 of this title or of a regulation prescribed under subsection (a) of this section is at issue, the certificate holder shall have the same notice and appeal rights as are prescribed for such holders in the Federal Aviation Act of 1958 [49 U.S.C. 1301 et seq.] or the Department of Transportation Act [49 U.S.C. 1651 et seq.], except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standard or regulation and that such amendment, modification, or revocation is consistent with safety in air transportation.

(July 14, 1955, ch. 360, title II, § 232, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1704.)

REFERENCES IN TEXT

The Federal Aviation Act, referred to in subsec. (a), probably means Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, as amended, known as the Federal Aviation Act of 1958, which is classified principally to chapter 20 (§ 1301 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 49 and Tables.

The Federal Aviation Act of 1958, referred to in subsec. (b), is Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731. For classification see paragraph set out above.

The Department of Transportation Act, referred to in subsecs. (a) and (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, and is classified principally to chapter 23 (§ 1651 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 49 and Tables.

CODIFICATION

Section was formerly classified to section 1857f-10 of this title.

§ 7573. State standards and controls

No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to a standard applicable to such aircraft under this part.

(July 14, 1955, ch. 360, title II, § 233, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1704.)

CODIFICATION

Section was formerly classified to section 1857f-11 of this title.

[1] So in original. The comma probably should not have appeared.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7416 of this title.

§ 7574. Definitions

Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 1301 of title 49.

(July 14, 1955, ch. 360, title II, § 234, as added Dec. 31, 1970, Pub. L. 91-604, § 11(a)(1), 84 Stat. 1705.)

CODIFICATION

Section was formerly classified to section 1857f-12 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§ 7601. Administration

(a) Regulations; delegation of powers and duties; regional officers and employees

(1) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient.

(2) Not later than one year after August 7, 1977, the Administrator shall promulgate regulations establishing general applicable procedures and policies for regional officers and employees (including the Regional Administrator) to follow in carrying out a delegation under paragraph (1), if any. Such regulations shall be designed—

(A) to assure fairness and uniformity in the criteria, procedures, and policies applied by the various regions in implementing and enforcing the chapter;

(B) to assure at least an adequate quality audit of each State's performance and adherence to the requirements of this chapter in implementing and enforcing the chapter, particularly in the review of new sources and in enforcement of the chapter; and

(C) to provide a mechanism for identifying and standardizing inconsistent or varying criteria, procedures, and policies being employed by such officers and employees in implementing and enforcing the chapter.

(b) Detail of Environmental Protection Agency personnel to air pollution control agencies

Upon the request of an air pollution control agency personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this chapter.

(c) Payments under grants; installments; advances or reimbursements

Payments under grants made under this chapter may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator.

(July 14, 1955, ch. 360, title III, § 301, formerly § 8, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L.

89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91-604, §§ 3(b)(2), 15(c)(2), 84 Stat. 1677, 1713; Aug. 7, 1977, Pub. L. 95-95, title III, § 305(e), 91 Stat. 776.)

CODIFICATION

Section was formerly classified to section 1857g of this title.

PRIOR PROVISIONS

A prior section 8 of act July 14, 1955, ch. 360, as added Sept. 22, 1959, Pub. L. 86-365, § 2, 73 Stat. 646, which was classified to a prior section 1857g of this title prior to the general amendment of this chapter by Pub. L. 88-206, provided for cooperative effort.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-95 designated existing provisions as par. (1) and added par. (2).

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (b). Pub. L. 91-604, § 3(b)(2), substituted "Environmental Protection Agency" for "Public Health Service" and struck out provisions covering the payment of salaries and allowances.

Subsec. (c). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

1967—Pub. L. 90-148 reenacted section without change.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7405 of this title.

§ 7602. Definitions

When used in this chapter—

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this chapter;

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(c) The term "interstate air pollution control agency" means—

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

(e) The term "person" includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(g) The term "air pollutant" means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.

(h) All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

(i) The term "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(j) Except as otherwise expressly provided, the terms "major stationary source" and "major emitting facility" mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

(k) The terms "emission limitation" and "emission standard" mean a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the

operation or maintenance of a source to assure continuous emission reduction.

(*l*) The term "standard of performance" means a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

(m) The term "means of emission limitation" means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics).

(n) The term "primary standard attainment date" means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

(*o*) The term "delayed compliance order" means an order issued by the State or by the Administrator to an existing stationary source, postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan.

(p) The term "schedule and timetable of compliance" means a schedule of required measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

(July 14, 1955, ch. 360, title III, § 302, formerly § 9, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91-604, § 15(a)(1), (c)(1), 84 Stat. 1710, 1713; Aug. 7, 1977, Pub. L. 95-95, title II, § 218(c), title III, § 301, 91 Stat. 761, 769; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(76), 91 Stat. 1404.)

CODIFICATION

Section was formerly classified to section 1857h of this title.

PRIOR PROVISIONS

Provisions similar to subsecs. (b) and (d) of this section were contained in a prior section 1857e, act July 14, 1955, ch. 360, § 6, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-95 § 218(c), added "and includes the Commonwealth of the Northern Mariana Islands" following "American Samoa".

Subsec. (e). Pub. L. 95-190 substituted "individual, corporation" for "individual corporation".

Pub. L. 95-95, § 301(b), expanded the definition of "person" to include agencies, departments, and instrumentalities of the United States and officers, agents, and employees thereof.

Subsec. (g). Pub. L. 95-95, § 301(c), expanded the definition of "air pollutant" so as, expressly, to include physical, chemical, biological, and radioactive substances or matter emitted into or otherwise entering the ambient air.

Subsecs. (i) to (p). Pub. L. 95-95, § 301(a), added subsecs. (i) to (p).

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(1), substituted a definition of "Administrator" as meaning the Administrator of the Environmental Protection Agency for a definition of "Secretary" as meaning the Secretary of Health, Education, and Welfare.

Subsec. (g). Pub. L. 91-604, § 15(a)(1), added subsec. (g) defining "air pollutant". Former subsec. (g) redesignated as subsec. (h) and amended.

Subsec. (h). Pub. L. 91-604, § 15(a)(1), redesignated subsec. (g) as subsec. (h) and, in subsec. (h) as so redesignated, substituted references to effects on soil, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate for references to injury to agricultural crops and livestock, and inserted references to effects on economic values and on personal comfort and well being.

1967—Pub. L. 90-148 reenacted section without change.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7405, 7413 of this title; title 26 sections 48, 169.

§ 7603. Emergency powers

(a) Suits in United States district court; emergency orders; consultation

Notwithstanding any other provision of this chapter, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of air pollutants causing or contributing to such pollution or to take such other action as may be necessary. If it is not practicable to assure prompt protection of the health of persons solely by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are, or may be, affected by such pollution source (or sources). Prior to taking any action under this section, the Administrator shall consult with the State and local authorities in order to confirm the correctness of the information on which the action proposed to be taken is based and to ascertain the action which such authorities are, or will be, taking. Such order shall be effective for a period of not more than twenty-four hours unless the Administrator brings an action under the first sentence of this subsection before the expiration of such period. Whenever the Administrator brings such an action within such period, such order shall be effective for a period of forty-eight hours or such longer period as may be authorized by the court pending litigation or thereafter.

(b) Willful violation or failure or refusal to comply with orders

Any person who willfully violates, or fails or refuses to comply with, any order issued by the Administrator under subsection (a) of this section may, in an action brought in the appropriate United States district court to enforce such

order, be fined not more than $5,000 for each day during which such violation occurs or failure to comply continues.

(July 14, 1955, ch. 360, title III, § 303, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, and amended Aug. 7, 1977, Pub. L. 95-95, title III, § 302(a), 91 Stat. 770.)

CODIFICATION

Section was formerly classified to section 1857h-1 of this title.

PRIOR PROVISIONS

A prior section 303 of act July 14, 1955, was renumbered section 310 by Pub. L. 91-604, and is set out as section 7610 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-95 designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, added provisions that, if it is not practicable to assure prompt protection of the health of persons solely by commencement of a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are, or may be, affected by such pollution source (or sources), that, prior to taking any action under this section, the Administrator consult with the State and local authorities in order to confirm the correctness of the information on which the action proposed to be taken is based and to ascertain the action which such authorities are, or will be, taking, that the order be effective for a period of not more than twenty-four hours unless the Administrator brings an action under the first sentence of this subsection before the expiration of such period, and that, whenever the Administrator brings such an action within such period, such order be effective for a period of forty-eight hours or such longer period as may be authorized by the court pending litigation or thereafter.

Subsec. (b). Pub. L. 95-95 added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7410, 7458, 7613 of this title.

§ 7604. Citizen suits

(a) Authority to bring civil action; jurisdiction

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation,

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator, or

(3) against any person who proposes to construct or constructs any new or modified major emitting facility without a permit required under part C of subchapter I of this chapter (relating to significant deterioration of air quality) or part D of subchapter I of this chapter (relating to nonattainment) or who is alleged to be in violation of any condition of such permit.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an emission standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any person may intervene as a matter of right.

(2) under subsection (a)(2) of the section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 7412(c)(1)(B) of this title or an order issued by the Administrator pursuant to section 7413(a) of this title. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) Venue; intervention by Administrator

(1) Any action respecting a violation by a stationary source of an emission standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) Award of costs; security

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nonrestriction of other rights

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any emission standard or limitation or to seek any other relief (including relief against the Administrator or a State agency). Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State, local, or interstate authority from—

(1) bringing any enforcement action or obtaining any judicial remedy or sanction in any State or local court, or

(2) bringing any administrative enforcement action or obtaining any administrative remedy or sanction in any State or local administrative agency, department or instrumentality,

against the United States, any department, agency, or instrumentality thereof, or any officer, agent, or employee thereof under State or local law respecting control and abatement of air pollution. For provisions requiring compliance by the United States, departments, agencies, instrumentalities, officers, agents, and employees in the same manner as nongovernmental entities, see section 7418 of this title.

(f) Definition

For purposes of this section, the term "emission standard or limitation under this chapter" means—

(1) a schedule or timetable of compliance, emission limitation, standard of performance or emission standard,

(2) a control or prohibition respecting a motor vehicle fuel or fuel additive, or

(3) any condition or requirement of a permit under part C of subchapter I of this chapter (relating to significant deterioration of air quality) or part D of subchapter I of this chapter (relating to nonattainment), any condition or requirement of section 7413(d) of this title (relating to certain enforcement orders), section 7419 of this title (relating to primary nonferrous smelter orders), any condition or requirement under an applicable implementation plan relating to transportation control measures, air quality maintenance plans, vehicle inspection and maintenance programs or vapor recovery requirements, section 7545 (e) and (f) of this title (relating to fuels and fuel additives), section 7491 of this title (relating to visibility protection), any condition or requirement under part B of subchapter I of this chapter (relating to ozone protection), or any requirement under section 7411 or 7412 of this title (without regard to whether such requirement is expressed as an emission standard or otherwise),

which is in effect under this chapter (including a requirement applicable by reason of section 7418 of this title) or under an applicable implementation plan.

(July 14, 1955, ch. 360, title II, § 304, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1706, and amended Aug. 7, 1977, Pub. L. 95-95, title III, § 303(a)-(c), 91 Stat. 771, 772; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(77), (78), 91 Stat. 1404.)

References in Text

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Codification

Section was formerly classified to section 1857h-2 of this title.

Prior Provisions

A prior section 304 of act July 14, 1955, was renumbered section 311 by Pub. L. 91-604, and is set out as section 7611 of this title.

Amendments

1977—Subsec. (a)(3). Pub. L. 95-190, § 14(a)(77), added "or modified" following "new".

Pub. L. 95-95, § 303(a), added subsec. (a)(3).

Subsec. (e). Pub. L. 95-95, § 303(c), added provisions which prohibited any construction of this section or any other law of the United States which would prohibit, exclude, or restrict any State, local, or interstate authority from bringing any enforcement action or obtaining any judicial remedy or sanction in any State or local court against the United States or bringing any administrative enforcement action or obtaining any administrative remedy or sanction against the United States in any State or local administrative agency, department, or instrumentality under State or local law.

Subsec. (f)(3). Pub. L. 95-190, § 14(a)(78), added ", or" following "(relating to ozone protection)", substituted "any condition or requirement under an" for "requirements under an", and struck out "or" preceding "section 7491".

Pub. L. 95-95, § 303(b), added subsec. (f)(3).

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Pending Actions and Proceedings

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L.

95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7413, 7419, 7491, 7617 of this title.

§ 7605. Representation in litigation

(a) Attorney General; attorneys appointed by Administrator

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this chapter to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action, within a reasonable time, attorneys appointed by the Administrator shall appear and represent him.

(b) Memorandum of understanding regarding legal representation

In the event the Attorney General agrees to appear and represent the Administrator in any such action, such representation shall be conducted in accordance with, and shall include participation by, attorneys appointed by the Administrator to the extent authorized by, the memorandum of understanding between the Department of Justice and the Environmental Protection Agency, dated June 13, 1977, respecting representation of the agency by the department in civil litigation.

(July 14, 1955, ch. 360, title III, § 305, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707, and amended Aug. 7, 1977, Pub. L. 95-95, title III, § 304(a), 91 Stat. 772.)

CODIFICATION

Section was formerly classified to section 1857h-3 of this title.

PRIOR PROVISIONS

A prior section 305 of act July 14, 1955, was renumbered section 312 by Pub. L. 91-604, and is set out as section 7612 of this title.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-95 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-95 added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7606. Federal procurement

(a) Contracts with violators prohibited

No Federal agency may enter into any contract with any person who is convicted of any offense under section 7413(c)(1) of this title for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

(b) Notification procedures

The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) Federal agency contracts

In order to implement the purposes and policy of this chapter to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after December 31, 1970, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this chapter in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

(d) Exemptions; notification to Congress

The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest

of the United States and he shall notify the Congress of such exemption.

(e) Annual report to Congress

The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section.

(July 14, 1955, ch. 360, title III, § 306, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707.)

CODIFICATION

Section was formerly classified to section 1857h-4 of this title.

PRIOR PROVISIONS

A prior section 306 of act July 14, 1955, ch. 360, title III, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered section 313 Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to additional reports to Congress, is set out as section 7613 of this title.

EXECUTIVE ORDER No. 11602

Ex. Ord. No. 11602, June 29, 1971, 36 F.R. 12475, formerly set out as a note under this section, which related to the administration of the Clean Air Act with respect to Federal contracts, grants, or loans, was superseded by Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, set out as a note below.

Ex. ORD. No. 11738. ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, provided:

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.) [now 42 U.S.C. 7401 et seq.], particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91-604), [this section], and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), particularly section 508 of that Act as added by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) [33 U.S.C. 1368], it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act [this chapter] (hereinafter referred to as "the Air Act") and the Federal Water Pollution Control Act (hereinafter referred to as "the Water Act") [33 U.S.C. 1251 et seq.].

SEC. 2. *Designation of Facilities.* (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Air Act [42 U.S.C. 7413(c)(1)] or section 309(c) of the Water Act [33 U.S.C. 1319(c)]. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

SEC. 3. *Contracts, Grants, or Loans.* (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

SEC. 4. *Procurement, Grant, and Loan Regulations.* The Federal Procurement Regulations, the Armed Services Procurement Regulations, and to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Air Act, the Water Act, and standards issued pursuant thereto in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

SEC. 5. *Rules and Regulations.* The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

SEC. 6. *Cooperation and Assistance.* The head of each Federal agency shall take such steps as may be necessary to insure that all officers and employees of this agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Air Act or the Water Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such reports to the Administrator.

SEC. 7. *Enforcement.* The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

SEC. 8. *Exemptions—Reports to Congress.* (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator, any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes of contracts, grants, or loans, which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contractors or direct recipients of Federal assistance by way of contracts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

SEC. 9. *Related Actions.* The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provisions of the Air Act or the Water Act.

SEC. 10. *Applicability.* This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

SEC. 11. *Uniformity.* Rules, regulations, standards, and guidelines issued pursuant to this order and section 508 of the Water Act [33 U.S.C. 1368] shall, to the maximum extent feasible, be uniform with regulations issued pursuant to this order, Executive Order No. 11602 of June 29, 1971 [set out as a note above], and section 306 of the Air Act [this section].

SEC. 12. *Order Superseded.* Executive Order No. 11602 of June 29, 1971 [set out as a note above], is hereby superseded.

RICHARD NIXON.

§ 7607. Administrative proceedings and judicial review

(a) Administrative subpenas; confidentiality; witnesses

(1)[1] In connection with any determination under section 7410(f) or section 7521(b)(5) of this title, or for purposes of obtaining information under section 7521(b)(4) or 7545(c)(3) of this title, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 7521(c) of this title, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Judicial review

(1) A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard or requirement under section 7412 of this title, any standard of performance or requirement under section 7411 of this title, any standard under section 7521 of this title (other than a standard required to be prescribed under section 7521(b)(1) of this title), any determination under section 7521(b)(5) of this title, any control or prohibition under section 7545 of this title, any standard under section 7571 of this title, any rule issued under section 7413, 7419, or under section 7420 of this title, or any other nationally applicable regulations promulgated, or final action taken, by the Administrator under this chapter may be filed only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any implementation plan under section 7410 of this title or section 7411(d) of this title, any order under section 7411(j) of this title, under section 7412(c) of this title, under section 7413(d) of this title, under section 7419 of this title, or under section 7420 of this title, or his action under section 1857c-10(c)(2)(A), (B), or (C) of this title (as in effect before August 7, 1977) or under regulations thereunder, or any other final action of the Administrator under this chapter (including any denial or disapproval by the Administrator under subchapter I of this chapter) which is locally or regionally applicable may be filed only in the United States Court of Appeals for the appropriate circuit. Notwithstanding the preceding sentence a petition for review of any action referred to in such sentence may be filed only in the United States Court of Appeals for the District of Columbia if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination. Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

[1] So in original. Subsec. (a) enacted without a par. (2).

(c) Additional evidence

In any judicial proceeding in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(d) Rulemaking

(1) This subsection applies to—

(A) the promulgation or revision of any national ambient air quality standard under section 7409 of this title,

(B) the promulgation or revision of an implementation plan by the Administrator under section 7410(c) of this title,

(C) the promulgation or revision of any standard of performance under section 7411 of this title or emission standard under section 7412 of this title,

(D) the promulgation or revision of any regulation pertaining to any fuel or fuel additive under section 7545 of this title,

(E) the promulgation or revision of any aircraft emission standard under section 7571 of this title,

(F) promulgation or revision of regulations pertaining to orders for coal conversion under section 7413(d)(5) of this title (but not including orders granting or denying any such orders),

(G) promulgation or revision of regulations pertaining to primary nonferrous smelter orders under section 7419 of this title (but not including the granting or denying of any such order),

(H) promulgation or revision of regulations under part B of subchapter I of this chapter (relating to stratosphere and ozone protection),

(I) promulgation or revision of regulations under part C of subchapter I of this chapter (relating to prevention of significant deterioration of air quality and protection of visibility),

(J) promulgation or revision of regulations under section 7521 of this title and test procedures for new motor vehicles or engines under section 7525 of this title and the revision of a standard under section 7521(a)(3) of this title,

(K) promulgation or revision of regulations for noncompliance penalties under section 7420 of this title,

(L) promulgation or revision of any regulations promulgated under section 7541 of this title (relating to warranties and compliance by vehicles in actual use),

(M) action of the Administrator under section 7426 of this title (relating to interstate pollution abatement), and

(N) such other actions as the Administrator may determine.

The provisions of section 553 through 557 and section 706 of title 5 shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies. This subsection shall not apply in the case of any rule or circumstance, referred to in subparagraphs (A) or (B) of subsection 553(b) of title 5.

(2) Not later than the date of proposal of any action to which this subsection applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a "rule"). Whenever a rule applies only within a particular State, a second (identical) docket shall be simultaneously established in the appropriate regional office of the Environmental Protection Agency.

(3) In the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the federal Register, as provided under section 553(b) of title 5, shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment (hereinafter referred to as the "comment period"). The notice of proposed rulemaking shall also state the docket number, the location or locations of the docket, and the times it will be open to public inspection. The statement of basis and purpose shall include a summary of—

(A) the factual data on which the proposed rule is based;

(B) the methodology used in obtaining the data and in analyzing the data; and

(C) the major legal interpretations and policy considerations underlying the proposed rule.

The statement shall also set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by the Scientific Review Committee established under section 7409(d) of this title and the National Academy of Sciences, and, if the proposal differs in any important respect from any of these recommendations, an explanation of the reasons for such differences. All data, information, and documents referred to in this paragraph on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule.

(4)(A) The rulemaking docket required under paragraph (2) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person

pays the expenses, including personnel costs to do the copying.

(B)(i) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

(ii) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

(5) In promulgating a rule to which this subsection applies (i) the Administrator shall allow any person to submit written comments, data, or documentary information; (ii) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (iii) a transcript shall be kept of any oral presentation; and (iv) the Administrator shall keep the record of such proceeding open for thirty days after completion of the proceeding to provide an opportunity for submission of rebuttal and supplementary information.

(6)(A) The promulgated rule shall be accompanied by (i) a statement of basis and purpose like that referred to in paragraph (3) with respect to a proposed rule and (ii) an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

(B) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

(C) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

(7)(A) The record for judicial review shall consist exclusively of the material referred to in paragraph (3), clause (i) of paragraph (4)(B), and subparagraphs (A) and (B) of paragraph (6).

(B) Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit (as provided in subsection (b) of this section). Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

(8) The sole forum for challenging procedural determinations made by the Administrator under this subsection shall be in the United States court of appeals for the appropriate circuit (as provided in subsection (b) of this section) at the time of the substantive review of the rule. No interlocutory appeals shall be permitted with respect to such procedural determinations. In reviewing alleged procedural errors, the court may invalidate the rule only if the errors were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.

(9) In the case of review of any action of the Administrator to which this subsection applies, the court may reverse any such action found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or

(D) without observance of procedure required by law, if (i) such failure to observe such procedure is arbitrary or capricious, (ii) the requirement of paragraph (7)(B) has been met, and (iii) the condition of the last sentence of paragraph (8) is met.

(10) Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

(11) The requirements of this subsection shall take effect with respect to any rule the proposal of which occurs after ninety days after August 7, 1977.

(e) Other methods of judicial review not authorized

Nothing in this chapter shall be construed to authorize judicial review of regulations or

orders of the Administrator under this chapter, except as provided in this section.

(f) Costs

In any judicial proceeding under this section, the court may award costs of litigation (including reasonable attorney and expert witness fees) whenever it determines that such award is appropriate.

(g) Stay, injunction, or similar relief in proceedings relating to noncompliance penalties

In any action respecting the promulgation of regulations under section 7420 of this title or the administration or enforcement of section 7420 of this title no court shall grant any stay, injunctive, or similar relief before final judgment by such court in such action.

(July 14, 1955, ch. 360, title III, § 307, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707, and amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(a), 85 Stat. 464; June 22, 1974, Pub. L. 93-319, § 6(c), 88 Stat. 259; Aug. 7, 1977, Pub. L. 95-95, title III, §§ 303(d), 305(a), (c), (f)-(h), 91 Stat. 772, 776, 777; Nov. 16, 1977, Pub. L. 95-190, § 14(a)(79), (80), 91 Stat. 1404.)

References in Text

Section 1857c-10(c)(2)(A), (B), or (C) of this title (as in effect before August 7, 1977), referred to in subsec. (b)(1), was in the original "section 119(c)(2)(A), (B), or (C) (as in effect before the date of enactment of the Clean Air Act Amendments of 1977)", meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, § 3, 88 Stat. 248, (which was classified to section 1857c-10 of this title) as in effect prior to the enactment of Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 691, effective Aug. 7, 1977. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to subsec. (d)(5) of section 7413 of this title. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

"Part B of this subchapter" and "part C of this subchapter", referred to in subsec. (d)(1)(H) and (I), respectively, were in the original "subtitle B of title I" and "subtitle C of title I", respectively, and were so translated to reflect the probable intent of Congress.

Codification

Section was formerly classified to section 1857h-5 of this title.

Prior Provisions

A prior section 307 of act July 14, 1955, ch. 360, title III, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 314, Dec. 31, 1970, Pub. L. 91-604, § 12(a) 84 Stat. 1705, which related to labor standards, is set out as section 7614 of this title.

Amendments

1977—Subsec. (b)(1). Pub. L. 95-190 in material relating to filing of petitions for review in the United States Court of Appeals for the District of Columbia added provision respecting requirements under sections 7411 and 7412 of this title, and substituted provisions authorizing review of any rule issued under section 7413, 7419, or 7420 of this title, for provisions authorizing review of any rule or order issued under section 7420 of this title, relating to noncompliance penalties, and in material relating to filing of petitions for review in the United States Court of Appeals for the appropriate circuit added provision respecting review under section 7411(j), 7412(c), 7413(d), or 7419 of this title, provision authorizing review under section 1857c-10(c)(2)(A), (B), or (C) to the period prior to Aug. 7, 1977, and provisions authorizing review of denials or disapprovals by the Administrator under subchapter I of this chapter.

Pub. L. 95-95, § 305(c), (h), added rules or orders issued under section 7420 of this title (relating to noncompliance penalties) and any other nationally applicable regulations promulgated, or final action taken, by the Administrator under this chapter to the enumeration of actions of the Administrator for which a petition for review may be filed only in the United States Court of Appeals for the District of Columbia, added the approval or promulgation by the Administrator of orders under section 7420 of this title, or any other final action of the Administrator under this chapter which is locally or regionally applicable to the enumeration of actions by the Administrator for which a petition for review may be filed only in the United States Court of Appeals for the appropriate circuit, added provision that petitions otherwise capable of being filed in the Court of Appeals for the appropriate circuit may be filed only in the Court of Appeals for the District of Columbia if the action is based on a determination of nationwide scope, and increased from 30 days to 60 days the period during which the petition must be filed.

Subsec. (d). Pub. L. 95-95, § 305(a), added subsec. (d).

Subsec. (e). Pub. L. 95-95, § 303(d), added subsec. (e).

Subsec. (f). Pub. L. 95-95, § 305(f), added subsec. (f).

Subsec. (g). Pub. L. 95-95, § 305(g), added subsec. (g).

1974—Subsec. (b)(1). Pub. L. 93-319 inserted reference to the Administrator's action under section 1857c-10(c)(2)(A), (B), or (C) of this title or under regulations thereunder and substituted reference to the filing of a petition within 30 days from the date of promulgation, approval, or action for reference to the filing of a petition within 30 days from the date of promulgation or approval.

1971—Subsec. (a)(1). Pub. L. 92-157 substituted reference to section "7545(c)(3)" for "7545(c)(4)" of this title.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

Termination of Advisory Committees

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

Pending Actions and Proceedings

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7413, 7419, 7420, 7521, 7545, 7547, 7617 of this title.

§ 7608. Mandatory licensing

Whenever the Attorney General determines, upon application of the Administrator—

(1) that—

(A) in the implementation of the requirements of section 7411, 7412, or 7521 of this title, a right under any United States letters patent, which is being used or intended for public or commercial use and not otherwise reasonably available, is necessary to enable any person required to comply with such limitation to so comply, and

(B) there are no reasonable alternative methods to accomplish such purpose, and

(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United States, which may issue an order requiring the person who owns such patent to license it on such reasonable terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district in which the person owning the patent resides, does business, or is found.

(July 14, 1955, ch. 360, title III, § 308, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1708.)

CODIFICATION

Section was formerly classified to section 1857h-6 of this title.

PRIOR PROVISIONS

A prior section 308 of act July 14, 1955, ch. 360, title III, formerly § 12, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 305, Oct. 20, 1965, Pub. L. 89-2 72, title I, § 101(4), 79 Stat. 992, renumbered § 308, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 315, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to separability of provisions, is set out as section 7615 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7609. Policy review

(a) Environmental impact

The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 4332(2)(C) of this title applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

(b) Unsatisfactory legislation, action, or regulation

In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

(July 14, 1955, ch. 360, title III, § 309, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1709.)

CODIFICATION

Section was formerly classified to section 1857h-7 of this title.

PRIOR PROVISIONS

A prior section 309 of act July 14, 1955, ch. 360, title III, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 306, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, renumbered § 309, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 316, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, which related to appropriations, was classified to section 1857*l* of this title. Similar appropriation provisions are now classified to section 7626 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act

July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7610. Other authority

(a) Authority and responsibilities under other laws not affected

Except as provided in subsection (b) of this section, this chapter shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of the Administrator or any other Federal officer, department, or agency.

(b) Nonduplication of appropriations

No appropriation shall be authorized or made under section 241, 243, or 246 of this title for any fiscal year after the fiscal year ending June 30, 1964, for any purpose for which appropriations may be made under authority of this chapter.

(July 14, 1955, ch. 360, title III, § 310, formerly § 10, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 303, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505; renumbered § 310, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(1), 84 Stat. 1705, 1713.)

CODIFICATION

Section was formerly classified to section 1857i of this title.

PRIOR PROVISIONS

A prior section 310 of act July 14, 1955, ch. 360, title III, formerly § 14, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 307, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, renumbered § 310, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 317, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705, is set out as a Short Title note under section 7401 of this title. Provisions similar to those contained in subsec. (a) of this section were contained in a prior section 1857f of this title, act July 14, 1955, ch. 360, § 7, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

1967—Subsec. (b). Pub. L. 90-148 substituted reference to section 246 of this title for reference to section 246(c) of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7611. Records and audit

(a) Recipients of assistance to keep prescribed records

Each recipient of assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Audits

The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(July 14, 1955, ch. 360, title III, § 311, formerly § 11, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 304, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, renumbered § 311, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(a), 84 Stat. 1705, 1713.)

CODIFICATION

Section was formerly classified to section 1857j of this title.

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare".

1967—Pub. L. 90-148 reenacted section without change.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4905, 7541 of this title.

§ 7612. Cost studies

(a) Detailed cost estimate; comprehensive cost and economic impact studies; annual reevaluation

In order to provide the basis for evaluating programs authorized by this chapter and the development of new programs and to furnish the Congress with the information necessary for authorization of appropriations by fiscal years beginning after June 30, 1969, the Admin-

istrator, in cooperation with State, interstate, and local air pollution control agencies, shall make a detailed estimate of the cost of carrying out the provisions of this chapter; a comprehensive study of the cost of program implementation by affected units of government; and a comprehensive study of the economic impact of air quality standards on the Nation's industries, communities, and other contributing sources of pollution, including an analysis of the national requirements for and the cost of controlling emissions to attain such standard of air quality as may be established pursuant to this chapter or applicable State law. The Administrator shall submit such detailed estimate and the results of such comprehensive study of cost for the five-year period beginning July 1, 1969, and the results of such other studies, to the Congress not later than January 10, 1969, and shall submit a reevaluation of such estimate and studies annually thereafter.

(b) Omitted

(c) Study of cost-effectiveness analyses

Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this chapter. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this chapter.

(July 14, 1955, ch. 360, title III, § 312, formerly § 305, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505, and renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713; Aug. 7, 1977, Pub. L. 95-95, title II, § 224(c), 91 Stat. 767.)

CODIFICATION

Subsec. (b), authorized the Administrator to make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs pursuant to this chapter, (2) the means of using existing Federal training programs to train such personnel, and (3) the need for additional trained personnel to develop, operate, and maintain those pollution control facilities designed and installed to implement air quality standards, and directed him to report the results of this investigation and study to the President and Congress not later than July 1, 1969.

Section was formerly classified to section 1857j-1 of this title.

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-95 added subsec. (c).

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7613. Additional reports to Congress

Not later than six months after November 21, 1967, and not later than January 10 of each calendar year beginning after such date, the Administrator shall report to the Congress on measures taken toward implementing the purpose and intent of this chapter including, but not limited to, (1) the progress and problems associated with control of automotive exhaust emissions and the research efforts related thereto; (2) the development of air quality criteria and recommended emission control requirements; (3) the status of enforcement actions taken pursuant to this chapter; (4) the status of State ambient air standards setting, including such plans for implementation and enforcement as have been developed; (5) the extent of development and expansion of air pollution monitoring systems; (6) progress and problems related to development of new and improved control techniques; (7) the development of quantitative and qualitative instrumentation to monitor emissions and air quality; (8) standards set or under consideration pursuant to subchapter II of this chapter; (9) the status of State, interstate, and local pollution control programs established pursuant to and assisted by this chapter; (10) the reports and recommendations made by the President's Air Quality Advisory Board; and (11)(A) the status of plan provisions developed by States as required under section 7410(a)(2)(F)(v) of this title, and an accounting of States failing to develop suitable plans; (B) the number of annual incidents of air pollution reaching or exceeding levels determined to present an imminent and substantial endangerment to health (within the meaning of section 7603 of this title) by location, date, pollution source, and the duration of the emergency; (C) measures taken pursuant to section 7410(a)(2)(F)(v) of this title, and an evaluation of their effectiveness in reducing pollution; and (D) an accounting of those instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken by either the Administrator, State, or local officials, together with an explanation for the failure to take action.

(July 14, 1955, ch. 360, title III, § 313, formerly § 306, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713; Aug. 7, 1977, Pub. L. 95-95, title III, § 302(b), 91 Stat. 771.)

CODIFICATION

Section was formerly classified to section 1857j-2 of this title.

AMENDMENTS

1977—Cl. (11). Pub. L. 95-95 added cl. (11).

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7614. Labor standards

The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects assisted under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the locality as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(July 14, 1955, ch. 360, title III, § 314, formerly § 307, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 1857j-3 of this title.

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" meaning the Secretary of Health, Education, and Welfare.

§ 7615. Separability of provisions

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter shall not be affected thereby.

(July 14, 1955, ch. 360, title III, § 315, formerly § 12, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 305, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, amended and renumbered § 308, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, and renumbered § 315, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705.)

CODIFICATION

Section was formerly classified to section 1857k of this title.

AMENDMENTS

1967—Pub. L. 90-148 reenacted section without change.

§ 7616. Sewage treatment grants

(a) Construction

No grant which the Administrator is authorized to make to any applicant for construction of sewage treatment works in any area in any State may be withheld, conditioned, or restricted by the Administrator on the basis of any requirement of this chapter except as provided in subsection (b) of this section.

(b) Withholding, conditioning, or restriction of construction grants

The Administrator may withhold, condition, or restrict the making of any grant for construction referred to in subsection (a) of this section only if he determines that—

(1) such treatment works will not comply with applicable standards under section 7411 or 7412 of this title,

(2) the State does not have in effect, or is not carrying out, a State implementation plan approved by the Administrator which expressly quantifies and provides for the increase in emissions of each air pollutant (from stationary and mobile sources in any area to which either part C or part D of subchapter I of this chapter applies for such pollutant) which increase may reasonably be anticipated to result directly or indirectly from the new sewage treatment capacity which would be created by such construction.

(3) the construction of such treatment works would create new sewage treatment capacity which—

(A) may reasonably be anticipated to cause or contribute to, directly or indirectly, an increase in emissions of any air pollutant in excess of the increase provided for under the provisions referred to in paragraph (2) for any such area, or

(B) would otherwise not be in conformity with the applicable implementation plan, or

(4) such increase in emissions would interfere with, or be inconsistent with, the applicable implementation plan for any other State.

In the case of construction of a treatment works which would result, directly or indirectly, in an increase in emissions of any air pollutant from stationary and mobile sources in an area to which part D of subchapter I of this chapter applies, the quantification of emissions referred to in paragraph (2) shall include the emissions of any such pollutant resulting directly or indirectly from areawide and nonmajor stationary source growth (mobile and stationary) for each such area.

(c) National Environmental Policy Act

Nothing in this section shall be construed to amend or alter any provision of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] or to affect any determination as to whether or not the requirements of such Act have been met in the case of the construction of any sewage treatment works.

(July 14, 1955, ch. 360, title III, § 316, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 306, 91 Stat. 777.)

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (c), probably means the National Environmental Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

PRIOR PROVISIONS

A prior section 316 of act July 14, 1955, ch. 360, title III, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 306 and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 2(a), 80 Stat. 954, renumbered § 309 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, and renumbered § 316 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 13(b), 84 Stat. 1705, 1709; Apr. 9, 1973, Pub. L. 93-15, § 1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(c), 88 Stat. 265, which authorized appropriations for air pollution control, was repealed by section 306 of Pub. L. 95-95. See now section 7626 of this title.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7617. Economic impact assessment

(a) Notice of proposed rulemaking; substantial revisions

This section applies to action of the Administrator in promulgating or revising—

(1) any new source standard of performance under section 7411(b) of this title,

(2) any regulation under section 7411(d) of this title,

(3) any regulation under part B of subchapter I of this chapter (relating to ozone and stratosphere protection),

(4) any regulation under part C of subchapter I of this chapter (relating to prevention of significant deterioration of air quality),

(5) any regulation establishing emission standards under section 7521 of this title and any other regulation promulgated under that section,

(6) any regulation controlling or prohibiting any fuel or fuel additive under section 7545(c) of this title and

(7) any aircraft emission standard under section 7571 of this title.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (7) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date ninety days after August 7, 1977. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

(b) Preparation of assessment by Administrator

Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact assessment respecting such standard or regulation. Such assessment shall be included in the docket required under section 7607(d)(2) of this title and shall be available to the public as provided in section 7607(d)(4) of this title. Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact assessment in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a) of this section. Each such explanation shall be part of the statements of basis and purpose required under sections 7607(d)(3) and 7607(d)(6) of this title.

(c) Analysis

Subject to subsection (d) of this section, the assessment required under this section with respect to any standard or regulation shall contain an analysis of—

(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

(2) the potential inflationary or recessionary effects of the standard or regulation;

(3) the effects on competition of the standard or regulation with respect to small business;

(4) the effects of the standard or regulation on consumer costs; and

(5) the effects of the standard or regulation on energy use.

Nothing in this section shall be construed to provide that the analysis of the factors specified in this subsection affects or alters the factors which the Administrator is required to consider in taking any action referred to in subsection (a) of this section.

(d) Extensiveness of assessment

The assessment required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this chapter.

(e) Limitations on construction of section

Nothing in this section shall be construed—

(1) to alter the basis on which a standard or regulation is promulgated under this chapter;

(2) to preclude the Administrator from carrying out his responsibility under this chapter to protect public health and welfare; or

(3) to authorize or require any judicial review of any such standard or regulation, or any stay or injunction of the proposal, promulgation, or effectiveness of such standard or regulation on the basis of failure to comply with this section.

(f) Citizen suits

The requirements imposed on the Administrator under this section shall be treated as nondiscretionary duties for purposes of section 7604(a)(2) of this title, relating to citizen suits. The sole method for enforcement of the Administrator's duty under this section shall be by bringing a citizen suit under such section 7604(a)(2) for a court order to compel the Administrator to perform such duty. Violation of any such order shall subject the Administrator to penalties for contempt of court.

(g) Costs

In the case of any provision of this chapter in which costs are expressly required to be taken into account, the adequacy or inadequacy of any assessment required under this section may be taken into consideration, but shall not be treated for purposes of judicial review of any such provision as conclusive with respect to compliance or noncompliance with the requirement of such provision to take cost into account.

(July 14, 1955, ch. 360, title III, § 317, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 307, 91 Stat. 778.)

CODIFICATION

Another section 317 of act July 14, 1955, is set out as a Short Title note under section 7401 of this title.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7618. Financial disclosure; conflicts of interest

(a) Statement; filing; availability to public

Each person who—

(1) has any known financial interest in (A) any person subject to this chapter, or (B) any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this chapter, and

(2) is (A) an officer or employee of the Environmental Protection Agency who performs any function of duty under this chapter, (B) a member of the National Commission on Air Quality appointed as a member of the public, or (C) a member of the scientific review committee under section 7409(d) of this title

shall, beginning six months after August 7, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer, employee, or member during the preceding calendar year. Such statement shall be available to the public.

(b) Known financial interest; monitoring and enforcement of requirement; annual report to Congress

The Administrator shall—

(1) act within ninety days after August 7, 1977—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section;

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers, employees and members of such statements and the review by the Administrator (or the Commission in the case of members of the Commission) of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such statements to the Administrator and the actions taken in regard thereto during the preceding calendar year.

(c) Conflict of interest

After the date one year after August 7, 1977, no person who—

(1) is employed by, serves as attorney for, acts as a consultant for, or holds any other official or contractual relationship to—

(A) the owner or operator of any major stationary source or any stationary source which is subject to a standard of performance or emission standard under section 7411 or 7412 of this title,

(B) any manufacturer of any class or category of mobile sources if such mobile sources are subject to regulation under this chapter,

(C) any trade or business association of which such owner or operator referred to in subparagraph (A) or such manufacturer referred to in subparagraph (B) is a member or

(D) any organization (whether or not nonprofit) which is a party to litigation, or engaged in political, educational, or informational activities, relating to air quality, or

(2) owns, or has any financial interest in, any stock, bonds, or other financial interest which ownership or interest may be inconsistent with a position as an officer or employee of the Environmental Protection Agency, as determined under regulations of the Administrator,

may concurrently serve as such an officer or employee of the Environmental Protection Agency.

(d) Exemptions; particular ownerships or financial interests

The Administrator shall promulgate rules for purposes of subsections (b) and (c) of this section which—

(1) identify specific offices or positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide

that officers or employees occupying such positions shall be exempt from the requirements of this section, and

(2) identify the ownership or financial interests which may be inconsistent with particular regulatory or policymaking offices or positions within the Environmental Protection Agency.

(e) Penalty

Any officer or employee of the Environmental Protection Agency or member of the national Commission on Air Quality or of the scientific review committee under section 7409(d) of this title who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(f) Disclosure or conflict of interest under other Federal statutes; generally applicable requirements

Nothing in this section shall be construed to affect or impair any other Federal statutory requirements respecting disclosure or conflict of interest applicable to the Environmental Protection Agency. Subsections (c) and (d) of this section shall not apply after the effective date of any such requirements respecting conflicts of interest which are generally applicable to departments, agencies, and instrumentalities of the United States.

(July 14, 1955, ch. 360, title III, § 318, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 308, 91 Stat. 780.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7619. Air quality monitoring

Not later than one year after August 7, 1977, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing an air quality monitoring system throughout the United States which—

(1) utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index,

(2) provides for air quality monitoring stations in major urban areas and other appropriate areas throughout the United States to provide monitoring such as will supplement (but not duplicate) air quality monitoring carried out by the States required under any applicable implementation plan,

(3) provides for daily analysis and reporting of air quality based upon such uniform air quality index, and

(4) provides for recordkeeping with respect to such monitoring data and for periodic analysis and reporting to the general public by the Administrator with respect to air quality based upon such data.

The operation of such air quality monitoring system may be carried out by the Administrator or by such other departments, agencies, or entities of the Federal Government (including the National Weather Service) as the President may deem appropriate. Any air quality monitoring system required under any applicable implementation plan under section 7410 of this title shall, as soon as practicable following promulgation of regulations under this section, utilize the standard criteria and methodology, and measure air quality according to the standard index, established under such regulations.

(July 14, 1955, ch. 360, title III, § 319, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 309, 91 Stat. 781.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7620. Standardized air quality modeling

(a) Conferences

Not later than six months after August 7, 1977, and at least every three years thereafter, the Administrator shall conduct a conference on air quality modeling. In conducting such conference, special attention shall be given to appropriate modeling necessary for carrying out part C of subchapter I of this chapter (relating to prevention of significant deterioration of air quality).

(b) Conferees

The conference conducted under this section shall provide for participation by the National Academy of Sciences, representatives of State and local air pollution control agencies, and appropriate Federal agencies, including the National Science Foundation; the National Oceanic and Atmospheric Administration, and the National Bureau of Standards.

(c) Comments; transcripts

Interested persons shall be permitted to submit written comments and a verbatim transcript of the conference proceedings shall be maintained.

(d) Promulgation and revision of regulations relating to air quality modeling

The comments submitted and the transcript maintained pursuant to subsection (c) of this section shall be included in the docket required to be established for purposes of promulgating or revising any regulation relating to air quality modeling under part C of subchapter I of this chapter.

(July 14, 1955, ch. 360, title III, § 320, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 310, 91 Stat. 782.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7621. Employment effects

(a) Continuous evaluation of potential loss or shifts of employment

The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this chapter and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement.

(b) Request for investigation; hearings; record; report

Any employee, or any representative of such employee, who is discharged or laid off, threatened with discharge or layoff, or whose employment is otherwise adversely affected or threatened to be adversely affected because of the alleged results of any requirement imposed or proposed to be imposed under this chapter, including any requirement applicable to Federal facilities and any requirement imposed by a State or political subdivision thereof, may request the Administrator to conduct a full investigation of the matter. Any such request shall be reduced to writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice. At such hearings, the Administrator shall require the parties, including the employer involved, to present information relating to the actual or potential effect of such requirements on employment and the detailed reasons or justification therefor. If the Administrator determines that there are no reasonable grounds for conducting a public hearing he shall notify (in writing) the party requesting such hearing of such a determination and the reasons therefor. If the Administrator does convene such a hearing, the hearing shall be on the record. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such requirements on employment and on the alleged actual or potential discharge, layoff, or other adverse effect on employment, and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

(c) Subpenas; confidential information; witnesses; penalty

In connection with any investigation or public hearing conducted under subsection (b) of this section or as authorized in section 7419 of this title (relating to primary nonferrous smelter orders), the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner, or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Limitations on construction of section

Nothing in this section shall be construed to require or authorize the Administrator, the States, or political subdivisions thereof, to modify or withdraw any requirement imposed or proposed to be imposed under this chapter.

(July 14, 1955, ch. 360, title III, § 321, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 311, 91 Stat. 782.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

STUDY OF POTENTIAL DISLOCATION OF EMPLOYEES

Section 403(e) of Pub. L. 95-95 provided that:

"(1) The Secretary of Labor, in consultation with the Administrator, shall conduct a study of potential dislocation of employees due to implementation of laws administered by the Administrator. Such study shall estimate the number of employees so affected, identify existing sources of assistance available to such employees, assess the adequacy of such assistance, and recommend additional adjustment measures, if justified.

"(2) The Secretary shall submit to Congress the results of the study conducted under paragraph (1) not more than one year after the date of enactment of this section [Aug. 7, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7419 of this title.

§ 7622. Employee protection

(a) Discharge or discrimination prohibited

No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or a proceeding for the administration or enforcement of any requirement imposed under this chapter or under any applicable implementation plan,

(2) testified or is about to testify in any such proceeding, or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this chapter.

(b) Complaint charging unlawful discharge or discrimination; investigation; order

(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) Review

(1) Any person adversely affected or aggrieved by an order issued under subsection (b) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

(d) Enforcement of order by Secretary

Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(e) Enforcement of order by person on whose behalf order was issued

(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) of this section may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) Mandamus

Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

(g) Deliberate violation by employee

Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this chapter.

(July 14, 1955, ch. 360, title III, § 322, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 312, 91 Stat. 783.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7623. National Commission on Air Quality

(a) Establishment; reports to Congress

There is established a National Commission on Air Quality which shall study and report to the Congress on—

(1) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and to achieve the other purposes of the chapter, including achievement and maintenance of national ambient air quality standards and in accordance with subsection (b)(2) of this section the prevention of significant deterioration of air quality;

(2) the economic, technology, and environmental consequences of achieving or not achieving the purposes of this chapter and programs authorized by it;

(3) the technological capability of achieving and the economic, energy, and environmental and health effects of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

(4) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

(5) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

(6) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the chapter;

(7) the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include—

(A) a description and analysis of the various pollutants which are commonly referred to as "photochemical oxidants" or chemical precursers to photochemical oxidants;

(B) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

(C) the relationship between the reductions of hydrocarbons, oxides or nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

(D) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants;

(E) any other oxidant-related issues which the Commission determines to be appropriate; and

(8)(A) the special problems of small businesses and government agencies in obtaining reductions of emissions from existing sources in order to offset increases in emissions from new sources for the purposes of this chapter; and

(B) alternative strategies for permitting, without impending the achievement of national ambient air quality standards as expeditiously as possible, the construction of new facilities and the modification of existing facilities in air quality control regions exceeding the national ambient air quality standard for any pollutant regulated under the chapter.

The Commission's study and report under paragraph (4) shall include analysis of the health effects of pollutants which are derivates of oxides of nitrogen.

(b) Studies and investigations

(1) Studies and investigations conducted pursuant to subsection (a) of this section shall include the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects.

(2) The Commission shall, in carrying out the study authorized under this section, give priority to a study of the implementation of the provisions of part C of subchapter I of this chapter (relating to prevention of significant deterioration of air quality) and its effects on the States and the Federal Government. In carrying out such study, the Commission shall study, among other questions, the following:

(A) whether the provisions relating to the designation of, and protection of air quality in class I areas under part C of subchapter I of this chapter are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

(B) whether the provisions of part C of subchapter I of this chapter, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under part C of subchapter I of this chapter, including an analysis of the costs associated with that technology;

(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this chapter will affect the protection of air quality in class I and class II regions designated under this chapter;

(E) whether the increments of change of air quality under this chapter are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under part C of subchapter I of this chapter;

(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under part C of subchapter I of this chapter for the pollutants subject to regulation under part C of subchapter I of this chapter; and

(G) the effects of such provisions on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

(c) Specific identification of loss or irretrievable commitment of resources

The Commission shall, as a part of any study conducted under subsection (b)(2) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

(d) Membership; appointment; confirmation

Such Commission shall be composed of thirteen members, including the chairman and the ranking minority member of the Senate Committee on Environment and Public Works and the House Committee on Interstate and Foreign Commerce (or delegates of such chairmen or member appointed by them from among representatives of such committees) and nine members of the public appointed by the President. The chairman of the Commission shall be elected from among the members thereof. Not more than one-third of the members of the Commission may have any interest in any business or activity regulated under this chapter.

(e) Cooperation

The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(f) Timetable of reports

A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning subsection (a)(3) of this section no later than March 1, 1978, and the results of the investigation and study concerning subsection (b)(2) of this section no later than two years after August 7, 1977. A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning paragraphs (3) and (8) of subsection (a) of this section no later than March 1, 1978, in order that Congress may have this information in a timely fashion if it deems further changes are needed in the requirements for control of emissions of oxides of nitrogen under this chapter, and for other purposes. The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the same matters required to be studied by the Commission under subsection (b)(2) of this section and to submit such study to the Congress at the same time as required for the report of the Commission concerning such subsection. Funds shall be available in the same manner, and the Administrator shall have the same authorities and duties respecting such study, as provided in the case of the study authorized pursuant to section 7521(c) of this title.

(g) Compensation and travel expenses; termination of Commission

A report shall be submitted with regard to all Commission studies and investigations other than those referred to in subsection (f) of this section, together with any appropriate recommendations, not later than three years after August 7, 1977. Upon submission of such report or upon expiration of such three-year period, whichever is sooner, the Commission shall cease to exist. The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, including travel-time and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(h) Appointment and compensation of staff; full public participation

The Commission may appoint and fix the pay of such staff as it deems necessary. In the conduct of the study, the Commission is authorized to contract with nongovermental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation. The Commission may contract with nonprofit technical and scientific organizations, including the National Academy of Sciences, for the purpose of developing necessary technical information for the study authorized by subsection (a)(7) of this section.

(July 14, 1955, ch. 360, title III, § 323, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 313, 91 Stat. 785, and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(81), (82), 91 Stat. 1404; S. Res 4, Feb. 4, 1977.)

CODIFICATION

"5 U.S.C. 5703" was substituted for "5 U.S.C. 73b-2", in subsec. (g), on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

In the original, subsec. (h) was designated as (j) and has been editorially redesignated as (h) for purposes of codification in order to reflect the probable intent of Congress.

Amendment by section 14(a)(82) of Pub. L. 95-190 was not executed to section 324(j) of the Clean Air

Act, section 7624 of this title, as provided for in the enacting language of section 14(a)(82), but to subsec. (j), now editorially redesignated (h), of this section for purposes of codification, in order to reflect the probable intent of Congress, in view of the fact that section 324 of the Clean Air Act, section 7624 of this title, did not contain a subsec. (j).

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-190, § 14(a)(81), substituted "thirteen" for "eleven" and "nine" for "seven", and struck out requirement for advice and consent of the Senate in appointment of membership.

Subsec. (h). Pub. L. 95-190, § 14(a)(82), added provisions relating to appointment and compensation of staff. See Codification note above.

CHANGE OF NAME

The Committee on Public Works of the Senate, referred to in subsec. (d), was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7626 of this title.

§ 7624. Cost of vapor recovery equipment

(a) Costs to be borne by owner of retail outlet

The regulations under this chapter applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Except as provided in subsection (b) of this section, such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after August 7, 1977, may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment. Such regulations shall also provide that the cost of procurement and installation of vapor recovery equipment may be recovered by the owner of such outlet by means of price increases in the cost of any product sold by such owner, notwithstanding any provision of law.

(b) Payment by lessee

The regulations of the Administrator referred to in subsection (a) of this section shall permit a lease of a retail outlet to provide for payment by the lessee of the cost of procurement and installation of vapor recovery equipment over a reasonable period (as determined in accordance with such regulations), if the owner of such outlet does not sell, trade in, or otherwise dispense any product at wholesale or retail at such outlet.

(July 14, 1955, ch. 360, title III, § 324, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 314(a), 91 Stat. 788.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7413, 7625 of this title.

§ 7625. Vapor recovery for small business marketers of petroleum products

(a) Marketers of gasoline

The regulations under this chapter applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall not apply to any outlet owned by an independent small business marketer of gasoline having monthly sales of less than 50,000 gallons. In the case of any other outlet owned by an independent small business marketer, such regulations shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment at such outlets under which such marketers shall have—

(1) 33 percent of such outlets in compliance at the end of the first year during which such regulations apply to such marketers,

(2) 66 percent at the end of such second year, and

(3) 100 percent at the end of the third year.

(b) State requirements

Nothing in subsection (a) of this section shall be construed to prohibit any State from adopting or enforcing, with respect to independent small business marketers of gasoline having monthly sales of less than 50,000 gallons, any vapor recovery requirements for mobile source fuels at retail outlets. Any vapor recovery requirement which is adopted by a State and submitted to the Administrator as part of its implementation plan may be approved and enforced by the Administrator as part of the applicable implementation plan for that State.

(c) Refiners

For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 7624 of this title or under regulations of the Administrator, unless such person—

(1)(A) is a refiner, or

(B) controls, is controlled by, or is under common control with, a refiner,

(C) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person), or

(2) receives less than 50 percent of his annual income from refining or marketing of gasoline.

For the purpose of this section, the term "refiner" shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, "control" of a corporation means ownership of more than 50 percent of its stock.

(July 14, 1955, ch. 360, title III, § 325, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 314(b), 91 Stat. 789.)

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7625a. Statutory construction

The parenthetical cross references in any provision of this chapter to other provisions of the chapter, or other provisions of law, where the words "relating to" or "pertaining to" are used, are made only for convenience, and shall be given no legal effect.

(July 14, 1955, ch. 360, title III, § 326, as added Nov. 16, 1977, Pub. L. 95-190, § 14(a)(84), 91 Stat. 1404.)

§ 7626. Authorization of appropriations

(a) There are authorized to be appropriated to carry out this chapter (other than provisions for which amounts are authorized under subsection (b) of this section), $200,000,000 for the fiscal year 1978 and for each of the three fiscal years beginning thereafter.

(b)(1) There are authorized to be appropriated to carry out section 7505 of this title beginning in fiscal year 1978, $75,000,000 to be available until expended.

(2) There are authorized to be appropriated for use in carrying out section 7623 of this title (relating to National Commission on Air Quality), not to exceed $10,000,000 beginning in fiscal year 1978. For the study authorized under section 7623 of this title there shall be made available by contract to the National Commission on Air Quality from the appropriation to the Environmental Protection Agency for fiscal year 1977 the sum of $1,000,000.

(3) There are authorized to be appropriated to carry out section 7427 of this title (relating to grants for public notification) $4,000,000 for the fiscal year 1978 and each of the three succeeding fiscal years.

(4) For purposes of section 7403(a)(5) of this title, there are authorized to be appropriated $7,500,000 for the fiscal year 1978 and each of the three fiscal years beginning after August 7, 1977.

(5) For the purpose of carrying out the provisions of part B of subchapter I of this chapter relating to studies and reports, there are authorized to be appropriated—

(A) to the National Aeronautics and Space Administration, the National Science Foundation, and the Department of State, such sums as may be necessary for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978;

(B) to the Environmental Protection Agency, $157,000,000 for fiscal year 1978; and

(C) to all other agencies such sums as may be necessary.

(6) There are authorized to be appropriated for carrying out research, development and demonstration under sections 7403 and 7404 of this title $120,000,000 for fiscal year 1978.

(July 14, 1955, c. 360, title III, § 327, formerly § 325, as added Aug. 7, 1977, Pub. L. 95-95, title III, § 315, 91 Stat. 790, and renumbered and amended Nov. 16, 1977, Pub. L. 95-190, § 14(a)(83), 91 Stat. 1404.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1857*l* of this title, act July 14, 1955, ch. 360, title III, § 316, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 306 and amended Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 2(a), 80 Stat. 954, renumbered § 309 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, and renumbered § 316 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 13(b), 84 Stat. 1705, 1709; Apr. 9, 1973, Pub. L. 93-15, § 1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, § 13(c), 88 Stat. 265, prior to its repeal by section 306 of Pub. L. 95-95.

AMENDMENTS

1977—Subsec. (b)(4). Pub. L. 95-190 substituted "7403(a)" for "7403(b)".

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

SUBCHAPTER IV—NOISE POLLUTION

§ 7641. Noise abatement

(a) Office of Noise Abatement and Control

The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare in order to (1) identify and classify causes and sources of noise, and (2) determine—

(A) effects at various levels;

(B) projected growth of noise levels in urban areas through the year 2000;

(C) the psychological and physiological effect on humans;

(D) effects of sporadic extreme noise (such as jet noise near airports) as compared with constant noise;

(E) effect on wildlife and property (including values);

(F) effect of sonic booms on property (including values); and

(G) such other matters as may be of interest in the public welfare.

(b) Investigation techniques; report and recommendations

In conducting such investigation, the Administrator shall hold public hearings, conduct research, experiments, demonstrations, and studies. The Administrator shall report the results of such investigation and study, together with his recommendations for legislation or other action, to the President and the Congress not later than one year after December 31, 1970.

(c) Abatement of noise from Federal activities

In any case where any Federal department or agency is carrying out or sponsoring any activity resulting in noise which the Administrator determines amounts to a public nuisance or is otherwise objectionable, such department or agency shall consult with the Administrator to determine possible means of abating such noise.

(July 14, 1955, ch. 360, title IV, § 402, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709.)

CODIFICATION

Section was formerly classified to section 1858 of this title.

§ 7642. Authorization of appropriations

There is authorized to be appropriated such amount, not to exceed $30,000,000, as may be necessary for the purposes of this subchapter.

(July 14, 1955, ch. 360, title IV, § 403, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1710.)

CODIFICATION

Section was formerly classified to section 1858a of this title.

CHAPTER 86—EARTHQUAKE HAZARDS REDUCTION [NEW]

Sec.
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7705. Annual report ot congressional committees.
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(a) General authorization for the program.
(b) Geological Survey.
(c) National Science Foundation.

§ 7701. Congressional findings

The Congress finds and declares the following:

(1) All 50 States are vulnerable to the hazards of earthquakes, and at least 39 of them are subject to major or moderate seismic risk, including Alaska, California, Hawaii, Illinois, Massachusetts, Missouri, Montana, Nevada, New Jersey, New York, South Carolina, Utah, and Washington. A large portion of the population of the United States lives in areas vulnerable to earthquake hazards.

(2) Earthquakes have caused, and can cause in the future, enormous loss of life, injury, destruction of property, and economic and social disruption. With respect to future earthquakes, such loss, destruction, and disruption can be substantially reduced through the development and implementation of earthquake hazards reduction measures, including (A) improved design and construction methods and practices, (B) land-use controls and redevelopment, (C) prediction techniques and early-warning systems, (D) coordinated emergency preparedness plans, and (E) public education and involvement programs.

(3) An expertly staffed and adequately financed earthquake hazards reduction program, based on Federal, State, local, and private research, planning, decisionmaking, and contributions would reduce the risk of such loss, destruction, and disruption in seismic areas by an amount far greater than the cost of such program.

(4) A well-funded seismological research program in earthquake prediction could provide data adequate for the design, of an operational system that could predict accurately the time, place, magnitude, and physical effects of earthquakes in selected areas of the United States.

(5) An operational earthquake prediction system can produce significant social, economic, legal, and political consequences.

(6) There is a scientific basis for hypothesizing that major earthquakes may be moderated, in at least some seismic areas, by applica-

tion of the findings of earthquake control and seismological research.

(7) The implementation of earthquake hazards reduction measures would, as an added benefit, also reduce the risk of loss, destruction, and disruption from other natural hazards and manmade hazards, including hurricanes, tornadoes, accidents, explosions, landslides, building and structural cave-ins, and fires.

(8) Reduction of loss, destruction, and disruption from earthquakes will depend on the actions of individuals, and organizations in the private sector and governmental units at Federal, State, and local levels. The current capability to transfer knowledge and information to these sectors is insufficient. Improved mechanisms are needed to translate existing information and research findings into reasonable and usable specifications, criteria, and practices so that individuals, organizations, and governmental units may make informed decisions and take appropriate actions.

(9) Severe earthquakes are a worldwide problem. Since damaging earthquakes occur infrequently in any one nation, international cooperation is desirable for mutual learning from limited experiences.

(10) An effective Federal program in earthquake hazards reduction will require input from and review by persons outside the Federal Government expert in the sciences of earthquake hazards reduction and in the practical application of earthquake hazards reduction measures.

(Pub. L. 95-124, § 2, Oct. 7, 1977, 91 Stat. 1098.)

SHORT TITLE

Section 1 of Pub. L. 95-124 provided: "That this Act [enacting this chapter] may be cited as the 'Earthquake Hazards Reduction Act of 1977'."

§ 7702. Congressional statement of purpose

It is the purpose of the Congress in this chapter to reduce the risks of life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program.

(Pub. L. 95-124, § 3, Oct. 7, 1977, 91 Stat. 1099.)

§ 7703. Definitions

As used in this chapter unless the context otherwise requires:

(1) The term "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth.

(2) The term "program" means the earthquake hazards reduction program established under section 7704 of this title.

(3) The term "seismic" and variants thereof mean having to do with, or caused by earthquakes.

(4) The term "State" means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, and any other territory or possession of the United States.

(5) The term "United States" means, when used in a geographical sense, all of the States as defined in paragraph (4) of this section.

(Pub. L. 95-124, § 4, Oct. 7, 1977, 91 Stat. 1099.)

§ 7704. National earthquake hazards reduction program

(a) Establishment

The President shall establish and maintain, in accordance with the provisions and policy of this chapter, a coordinated earthquake hazards reduction program, which shall—

(1) be designed and administered to achieve the objectives set forth in subsection (c) of this section;

(2) involve, where appropriate, each of the agencies listed in subsection (d) of this section; and

(3) include each of the elements described in subsection (e) of this section; the implementation plan described in subsection (f) of this section; and the assistance to the States specified in subsection (g) of this section.

(b) Duties of the President: designation of entity for development of plan; submittal of plan to congressional committees; and designation of entity for development and implementation of program, cooperation and coordination with and assistance to governmental entities of the States, and program staffing

The President shall—

(1) within 30 days after October 7, 1977, designate the Federal department, agency, or entity responsible for the development of the implementation plan described in subsection (f) of this section;

(2) within 210 days after October 7, 1977, submit to the appropriate authorizing committees of the Congress the implementation plan described in subsection (f) of this section; and

(3) by rule, within 300 days after October 7, 1977—

(A) designate the Federal department, agency, or interagency group which shall have primary responsibility for the development and implementation of the earthquake hazards reduction program;

(B) assign and specify the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

(C) establish goals, priorities, and target dates for implementation of the program;

(D) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk; and

(E) provide for qualified staffing for the program and its components.

(c) Objectives of the program

The objectives of the earthquake hazards reduction program shall include—

(1) Earthquake resistant construction

the development of technologically and economically feasible design and construction methods and procedures to make new and existing structures, in areas of seismic risk, earthquake resistant, giving priority to the development of such methods and procedures for nuclear power generating plants, dams, hospitals, schools, public utilities, public safety structures, high occupancy buildings, and other structures which are especially needed in time of disaster;

(2) Earthquake prediction

the implementation in all areas of high or moderate seismic risk, of a system (including personnel, technology, and procedures) for predicting damaging earthquakes and for identifying, evaluating, and accurately characterizing seismic hazards;

(3) Model codes

the development, publication, and promotion, in conjunction with State and local officials and professional organizations, of model codes and other means to coordinate information about seismic risk with land-use policy decisions and building activity;

(4) Earthquake-related issues; understanding

the development, in areas of seismic risk, of improved understanding of, and capability with respect to, earthquake-related issues, including methods of controlling the risks from earthquakes, planning to prevent such risks, disseminating warnings of earthquakes, organizing emergency services, and planning for reconstruction and redevelopment after an earthquake;

(5) Education of the public

the education of the public, including State and local officials, as to earthquake phenomena, the identification of locations and structures which are especially susceptible to earthquake damage, ways to reduce the adverse consequences of an earthquake, and related matters;

(6) Research respecting mitigation of earthquake hazards, the varied consequences of earthquake prediction, and assurance of availability of earthquake insurance

the development of research on—

(A) ways to increase the use of existing scientific and engineering knowledge to mitigate earthquake hazards;

(B) the social, economic, legal, and political consequences of earthquake prediction; and

(C) ways to assure the availability of earthquake insurance or some functional substitute; and

(7) Basic and applied research for control or alteration of seismic phenomena

the development of basic and applied research leading to a better understanding of the control or alteration of seismic phenomena.

(d) Federal participation

In assigning the role and responsibility of Federal departments, agencies, and entities under subsection (b)(3)(B) of this section, the President shall, where appropriate, include the United States Geological Survey, the National Science Foundation, the Department of Defense, the Department of Housing and Urban Development, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, the Energy Research and Development Administration, the Nuclear Regulatory Commission, and the National Fire Prevention and Control Administration.

(e) Research elements

The research elements of the program shall include—

(1) research into the basic causes and mechanisms of earthquakes;

(2) development of methods to predict the time, place, and magnitude of future earthquakes;

(3) development of an understanding of the circumstances in which earthquakes might be artificially induced by the injection of fluids in deep wells, by the impoundment of reservoirs, or by other means;

(4) evaluation of methods that may lead to the development of a capability to modify or control earthquakes in certain regions;

(5) development of information and guidelines for zoning land in light of seismic risk in all parts of the United States and preparation of seismic risk analyses useful for emergency planning and community preparedness;

(6) development of techniques for the delineation and evaluation of the political effects of earthquakes, and their application on a regional basis;

(7) development of methods for planning, design, construction, rehabilitation, and utilization of manmade works so as to effectively resist the hazards imposed by earthquakes;

(8) exploration of possible social and economic adjustments that could be made to reduce earthquake vulnerability and to exploit effectively existing and developing earthquake mitigation techniques; and

(9) studies of foreign experience with all aspects of earthquakes.

(f) Implementation plan; year-by-year targets; Federal and non-Federal roles; specific provisions; report to congressional committees: explanation of reasons for noninitiation of contemplated or proposed specific action

The President shall develop, through the Federal agency, department, or entity designated under subsection (b)(1) of this section, an implementation plan which shall set year-by-year targets through at least 1980, and shall specify the roles for Federal agencies, and recommended appropriate roles for State and local units of government, individuals, and private organizations, in carrying out the implementation plan. The plan shall provide for—

(1) the development of measures to be taken with respect to preparing for earthquakes, evaluation of prediction techniques and actual predictions of earthquakes, warning the residents of an area that an earthquake may occur, and ensuring that a com-

prehensive response is made to the occurrence of an earthquake;

(2) the development of ways for State, county, local, and regional governmental units to use existing and developing knowledge about the regional and local variations of seismic risk in making their land use decisions;

(3) the development and promulgation of specifications, building standards, design criteria, and construction practices to achieve appropriate earthquake resistance for new and existing structures;

(4) an examination of alternative provisions and requirements for reducing earthquake hazards through Federal and federally financed construction, loans, loan guarantees, and licenses;

(5) the determination of the appropriate role for insurance, loan programs, and public and private relief efforts in moderating the impact of earthquakes; and

(6) dissemination, on a timely basis, of—

(A) instrument-derived data of interest to other researchers;

(B) design and analysis data and procedures of interest to the design professions and to the construction industry; and

(C) other information and knowledge of interest to the public to reduce vulnerability to earthquake hazards.

When the implementation plan developed by the President under this section contemplates or proposes specific action to be taken by any Federal agency, department, or entity, and, at the end of the 30-day period beginning on the date the President submits such plan to the appropriate authorizing committees of the Congress any such action has not been initiated, the President shall file with such committees a report explaining, in detail, the reasons why such action has not been initiated.

(g) State assistance

In making assistance available to the States under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.), the President may make such assistance available to further the purposes of this chapter, including making available to the States the results of research and other activities conducted under this chapter.

(h) Non-Federal participation; program plan review; report to Congress; evaluation of non-Federal and Federal prediction activities

In carrying out the provisions of this section, the President shall provide an opportunity for participation by the appropriate representatives of State and local governments, and by the public, including representatives of business and industry, the design professions, and the research community, in the formulation and implementation of the program.

Such non-Federal participation shall include periodic review of the program plan, considered in its entirety, by an assembled and adequately staffed group of such representatives. Any comments on the program upon which such group agrees shall be reported to the Congress.

Measures developed pursuant to subsection (f)(1) of this section for the evaluation of prediction techniques and actual predictions of earthquakes shall provide for adequate non-Federal participation. To the extent that such measures include evaluation by Federal employees of non-Federal prediction activities, such measures shall also include evaluation by persons not in full-time Federal employment of Federal prediction activities.

(Pub. L. 95-124, § 5, Oct. 7, 1977, 91 Stat. 1099.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsec. (g), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7703, 7706 of this title.

§ 7705. Annual report to congressional committees

The President shall, within ninety days after the end of each fiscal year, submit an annual report to the appropriate authorizing committees in the Congress describing the status of the program, and describing and evaluating progress achieved during the preceding fiscal year in reducing the risks of earthquake hazards. Each such report shall include any recommendations for legislative and other action the President deems necessary and appropriate.

(Pub. L. 95-124, § 6, Oct. 7, 1977, 91 Stat. 1102.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7706 of this title.

§ 7706. Authorization of appropriations

(a) General authorization for the program

There are authorized to be appropriated to the President to carry out the provisions of sections 7704 and 7705 of this title (in addition to any authorizations for similar purposes included in other Acts and the authorizations set forth in subsections (b) and (c) of this section), not to exceed $1,000,000 for the fiscal year ending September 30, 1978, not to exceed $2,000,000 for the fiscal year ending September 30, 1979, and not to exceed $2,000,000 for the fiscal year ending September 30, 1980.

(b) Geological Survey

There are authorized to be appropriated to the Secretary of the Interior for purposes for carrying out, through the Director of the United States Geological Survey, the responsibilities that may be assigned to the Director under this chapter not to exceed $27,500,000 for the fiscal year ending September 30, 1978; not to exceed $35,000,000 for the fiscal year ending September 30, 1979; and not to exceed

$40,000,000 for the fiscal year ending September 30, 1980.

(c) National Science Foundation

To enable the Foundation to carry out responsibilities that may be assigned to it under this chapter, there are authorized to be appropriated to the Foundation not to exceed $27,500,000 for the fiscal year ending September 30, 1978; not to exceed $35,000,000 for the fiscal year ending September 30, 1979; and not to exceed $40,000,000 for the fiscal year ending September 30, 1980.

(Pub. L. 95-124, § 7, Oct. 7, 1977, 91 Stat. 1103.)

CHAPTER 2—GEOLOGICAL SURVEY

§ 50. Survey's share of cost of topographic mapping or water resources investigations carried on with States

REPEATED

Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 290.

CHAPTER 12—RECLAMATION AND IRRIGATION OF LANDS BY FEDERAL GOVERNMENT

SUBCHAPTER I—GENERAL PROVISIONS

§ 377a. Limitation on use of funds where organizations or individuals are in arrears on contract charges

REPEATED

Pub. L. 95-96, title III, § 300, Aug. 7, 1977, 91 Stat. 804.

§ 502. Emergency fund to assure continuous operation of irrigation and power systems maintained by Bureau of Reclamation

SUBCHAPTER XI—MAINTENANCE AND OPERATION OF WORKS GENERALLY

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

TEMPORARY AUTHORITY OF SECRETARY OF THE INTERIOR TO FACILITATE EMERGENCY ACTIONS WITH REGARD TO 1976-1977 DROUGHT

Pub. L. 95-18, Apr. 7, 1977, 91 Stat. 36, as amended by Pub. L. 95-107, Aug. 17, 1977, 91 Stat. 870, provided:

"That the Secretary of the Interior, hereinafter referred to as the 'Secretary', acting through the Bureau of Reclamation and the Bureau of Indian Affairs pursuant to the authorities in the Federal Reclamation Laws (74 Stat. 882, as amended) and other appropriate authorities of the Secretary, and the authorities granted herein, is directed to—

"(a) perform studies to identify opportunities to augment, utilize, or conserve water supplies available to Federal reclamation projects and Indian irrigation projects constructed by the Secretary; and consistent with existing contractual arrangements, and State law, and without further authorization, to undertake construction, management and conservation activities which can be expected to have an effect in mitigating losses and damages to Federal reclamation projects and Indian irrigation projects constructed by the Secretary resulting from the 1976-1977 drought period: *Provided*, That construction activities undertaken to implement the programs authorized by this Act shall be completed by January 31, 1978;

"(b) assist willing buyers in their purchase of available water supplies from willing sellers and to redistribute such water to irrigators based upon priorities to be determined by the Secretary within the constraints of State water laws, with the objective of minimizing losses and damages resulting from the drought; and

"(c) undertake expedited evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of the current emergency and make recommendations to the President and to the Congress evaluating such potential undertakings including, but not limited to, wells, pumping plants, pipelines, canals, and alterations of outlet works of existing impoundments.

"Sec. 2. (a) Payments for water acquired from willing sellers will be at a negotiated price, but will not confer any undue benefit or profit to any person or persons compared to what would have been realized if the water had been used in the normal irrigation of crops adapted to the area, as determined by the Secretary.

"(b) Purchases of water acquired under subsection (a) above shall be made at a price to be determined by the Secretary: *Provided*, That the selling price shall be sufficient to recover all expenditures made in acquiring the water.

"Sec. 3. (a) The Secretary shall determine for purposes of this Act [Pub. L. 95-18] the priority of need for allocating the water, taking into consideration, among other things, State law, national need, and the effect of losing perennial crops due to drought.

"(b) For the purposes of this Act the term 'irrigators' shall mean any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects and within all irrigation projects constructed by the Secretary for Indians.

"(c) For the purposes of this Act [Pub. L. 95-18], the term 'Federal reclamation project' means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended [section 422a et seq. of this title].

"Sec. 4. The Secretary is hereby authorized to defer without penalty, the 1977 payments of any installment of charges including operation and maintenance costs owed to the United States by irrigators as he deems necessary because of financial hardship caused by extreme drought conditions: *Provided*, That any deferment shall be recovered and such recovery may be accomplished by extending the repayment period under the contracting entities' existing contracts with the United States.

"Sec. 5. Actions taken pursuant to this Act [Pub. L. 95-18] are in response to emergency conditions and depend for their effectiveness upon their completion prior to or during the 1977 irrigation season and, therefore, are deemed not to be major Federal actions

significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended, 42 U.S.C. 4321).

"Sec. 6. The program established by this Act [Pub. L. 95-18] shall, to the extent practicable, be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary shall consult with the heads of such other Federal and State agencies as he deems necessary. The heads of all other Federal agencies performing relief functions under other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act.

"Sec. 7. Not later than March 1, 1978, the Secretary shall provide the President and the Congress with a complete report on expenditures and accomplishments under this Act [Pub. L. 95-18].

"Sec. 8. (a) The Secretary is authorized to make loans to irrigators for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water, which can be expected to have an effect in mitigating losses and damages resulting from the 1976-1977 drought period.

"(b) Such loans shall be without interest with the repayment schedule to be determined by the Secretary, but loans for acquiring water under section 2 of this Act shall not exceed five years in duration.

"(c) The authorities conferred by this Act shall terminate on November 30, 1977.

"(d) The Secretary may condition grants, or may waive all or a portion of the repayment of loans made under this Act [Pub. L. 95-18], upon the agreement of a recipient to undertake a program of water conservation and efficient management meeting standards established by the Secretary. The Secretary shall report to Congress on measures which he has undertaken to institute such conservation and management procedures.

"Sec. 9. There is authorized to be appropriated $100,000,000 to carry out the provisions of this Act [Pub. L. 95-18] which shall include the construction of emergency physical facilities under terms and conditions applying to expenditures from the emergency fund created by the Act of June 26, 1948 (62 Stat. 1052) [this section and section 503 of this title].

"Sec. 10. (a) Funds available to the Secretary pursuant to this Act [Pub. L. 95-18] and the Act of June 26, 1948 (62 Stat. 1052) [this section and section 503 of this title], shall be available for expenditure on behalf of (1) projects financed through loans pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended [section 422a et seq. of this title], and (2) projects financed with non-Federal funds notwithstanding the provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650) [section 423e of this title], and any other similar provision of law. Expenditures undertaken under this authority shall be governed by the same terms and conditions as apply to programs regularly constructed under Federal reclamation law: *Provided*, That not more than 15 per centum of such available funds may be used on behalf of nonfederally financed projects and not more than $1,000,000 may be expended on behalf of any individual contracting entity.

"(b) Funds available to the Secretary pursuant to this Act [Pub. L. 95-18] and the Act of June 26, 1948 (62 Stat. 1052) [this section and section 503 of this title], shall be available for expenditure for drought emergency programs conducted heretofore or hereafter by State water resource agencies during fiscal year 1977 if such programs are found to be compatible with the broad purposes of this Act. In recognition of the widespread and diffused nature of the benefits deriving from this subsection, all funds expended under the authority of this subsection shall be nonreimbursable.

"(c) Funds available for expenditure under the provisions of this Act [Pub. L. 95-18] may be used by the Secretary for the purchase of water or for acquisition of entitlement to water from any available source for the purpose of mitigating damage to fish and wildlife resources caused by drought conditions. Not to exceed $10,000,000 may be expended for such activities and any amount so expended shall be nonreimbursable.

"Sec. 11. Nothing in this Act [Pub. L. 95-18] shall be construed as limiting or restricting the power and authority of the United States or—

"(a) as affecting in any way any law governing appropriations or use of, or Federal right to, water on public lands;

"(b) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

"(c) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

"(d) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies; and

"(e) as modifying the terms of any interstate compact."

CHAPTER 12A—BOULDER CANYON PROJECT

SUBCHAPTER I—BOULDER CANYON PROJECT ACT

§ 617e. Uses to be made of dam and reservoir; title in whom; leases, regulations; limitation on authority of Federal Power Commission

Transfer of Functions

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 29—SUBMERGED LANDS

SUBCHAPTER III—OUTER CONTINENTAL SHELF LANDS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 156 of this title; title 16 sections 460*l*-5, 470h, 1456; title 29 sections 213, 302, 402, 630, 653, 1002; title 33 sections 941, 1321, 1503; title 41 section 357; title 42 sections 2000e, 7152.

§ 1331. Definitions

Transfer of Functions

The functions of the Secretary of the Interior to promulgate regulations under this subchapter which relate to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

§ 1334. Administration of leasing

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this subchapter which relate to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions were transferred to either the Secretary of Energy or, with regard to certain specific and enumerated functions relating to hydroelectric licenses and permits, electricity rates and charges, natural gas rates and charges, certificates of public convenience and necessity for natural gas, natural gas curtailments, and mergers and securities acquisitions under the Federal Power Act, section 791a et seq. of Title 16, Conservation, and the Natural Gas Act, section 717 et seq. of Title 15, Commerce and Trade, to the Federal Energy Regulatory Commission by sections 7151, 7172, and 7293 of Title 42, The Public Health and Welfare.

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to, and vested in, the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§ 1335. Validation and maintenance of prior leases

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this subchapter which relate to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

§ 1336. Controversies over jurisdiction; agreements; payments; final settlement or adjudication; approval of notice concerning oil and gas operations in Gulf of Mexico

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this subchapter which relate to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

§ 1337. Grant of leases by Secretary

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior to promulgate regulations under this subchapter which relate to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, were transferred to the Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare.

CHAPTER 31—DEPARTMENT OF THE INTERIOR

§ 1456a. Repealed. Pub. L. 95-164, title III, § 306(b), Nov. 9, 1977, 91 Stat. 1322

Section, Pub. L. 93-153, title IV, § 405, Nov. 16, 1973, 87 Stat. 590, provided for the appointment by the President of the head of the Mining Enforcement and Safety Administration.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of Title 30, Mineral Lands and Mining.

§ 1457. Duties of Secretary

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior, the Department of the Interior, and the officers and components of the Department of the Interior exercised by the Bureau of Mines relating to fuel supply and demand analysis and data gathering, research and development relating to increased efficiency of production technology of solid fuel minerals other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining, and coal preparation and analysis were transferred to the Secretary of Energy by section 7152(d) of Title 42, The Public Health and Welfare.

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

REPORT TO CONGRESS ON AVAILABILITY OF FEDERAL PROGRAMS TO TERRITORIES OF UNITED STATES; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-134, title IV, § 401, Oct. 15, 1977, 91 Stat. 1163, provided that: "The Secretary of the Interior is directed to submit to the Congress not later than January 1, 1978, a report on Federal programs available to the territories of the United States indicating in such report what programs are available to each territory, what additional programs would be of benefit to such territory if made available, what changes or modifications to each program should be made to improve the operation and effectiveness of each program and the estimated costs of such program. There is hereby authorized to be appropriated for fiscal year 1978 $50,000

to assist the Secretary in the preparation of this report."

CHAPTER 33—ALASKA NATIVE CLAIMS SETTLEMENT

Sec.
1628. Assignments by Regional Corporations of rights to receive payments from Fund [New].
(a) Recognition by Secretary; scope of recognition.
(b) Nonrecognition by Secretary.
(c) Claims against Secretary by stockholders of Regional or Village Corporation for recognition of assignment.

Chapter Referred to in Other Sections

This chapter is referred to in title 5 section 3371; title 25 sections 450b, 1452, 1603; title 29 section 872; title 30 section 1306; title 33 section 1263; title 42 sections 2991b, 2992c, 3002, 4762, 6502.

§ 1606. Regional Corporations

Section Referred to in Other Sections

This section is referred to in sections 1604, 1605, 1607, 1618, 1620, 1627, 1628 of this title; title 42 section 1382b.

§ 1611. Native land selections

Separability of Provisions

Pub. L. 95-178, § 3(b), Nov. 15, 1977, 91 Stat. 1370, provided that: "If any provision of this Act [enacting section 1628 of this title, amending sections 1613 and 1615 of this title, and amending provisions set out as a note under this section] or the applicability thereof is held invalid, the validity of the remainder of this Act, of section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended [set out as a note below], of the document referred to in section 12(b) thereof, and the duties and obligations of the Secretary of the Interior, the State of Alaska, and Cook Inlet Region, Incorporated, with respect thereto, shall not be affected thereby."

Settlement of Claims and Consolidation of Ownership Among the United States, the Cook Inlet Region, Inc. and the State of Alaska

Pub. L. 94-204, § 12, Jan. 2, 1976, 89 Stat. 1150, as amended by Pub. L. 94-456, § 3, Oct. 4, 1976, 90 Stat. 1935; Pub. L. 95-178, § 3(a), Nov. 15, 1977, 91 Stat. 1369, provided that:

* * * * *

"(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law.

"(1) title to approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustamena, or the mineral estate in the waterfront zone described in the document referred to in this subsection;

* * * * *

"There shall be established a buffer zone outside the withdrawals described in subparagraphs (i) and (ii) which zone shall extend one township from any such section 11(a)(3) [section 1610(a)(3) of this title] withdrawal and one and one-half townships from any section 11(a)(1) [section 1610(a)(1) of this title], withdrawal. Any nomination of a township within such zone shall be subject to the consent of the Region, or of the Village Corporation if adjacent to a section 11(a)(1) [section 1610(a)(1) of this title], withdrawal: *Provided, however,* That the affected Regional Corporation may designate additional lands to be included by substitution in the buffer zone so long as the buffer zone location is no greater than two townships in width and the total acreage of the buffer zone is not enlarged. The affected Regional Corporation shall designate the enlarged buffer zone, if any, no later than six months following the passage of this Act [Jan. 2, 1976]. Any use or development by the Region of land conveyed under this paragraph shall give due protection to the existing subsistence uses of such lands by the residents of the area; and no easement across Village Corporation lands to lands conveyed under this paragraph shall be established without the consent of the said Village Corporation or Corporations.

"Any provision of law to the contrary notwithstanding, if the Region, the Secretary, and/or the Administrator of General Services do not complete the nomination of lands referred to in subparagraphs (5) and (6) of this subsection by the dates set in subparagraphs I(C)(1)(b) and I(C)(2)(a) of the document referred to in this subsection, then, and in that event, these dates shall hereby automatically be extended by operation of this subsection for eighteen months. If these dates are hereby extended, the Secretary shall report to Congress at least thirty days prior to the occurrence of each such date as extended concerning the need for further remedial legislation.

"Any provision of law to the contrary notwithstanding, the United States shall accept upon tender the State Deed of Title, including the State's legal descriptions, for lands to be reconveyed to the Cook Inlet Region, Incorporated, pursuant to subsection (a)(1) of this section without requiring further survey prior to acceptance. Unless the boundaries of such lands have been specifically identified in a survey approved by the State or Federal Government, such lands shall be described by a metes and bounds description, or by aliquot parts of the Federal rectangular survey system, based wherever possible upon the Federal surveys initially performed to effect transfer and patent of said lands to the State of Alaska. Upon acceptance of a State Deed of Title said lands are hereby withdrawn from entry under the public land laws. Within sixty days the Secretary shall, without adjudication, issue conveyance to said lands of the interests conveyed by the State subject to any lawful reservations of rights or conditions contained in such State conveyance, as provided in the Terms and Conditions document, to Cook Inlet Region, Incorporated, with patent to issue thereafter immediately following approval of survey. The Secretary is authorized hereby to identify and reserve within two years after initial conveyance any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation, subject to the agreement of January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Incorporated, and certain of the villages contained therein. The Secretary may initiate such easement identification and reservation procedure before the tender of the State Deed of Title, but initiation of such procedure shall

not affect the timely issuance of conveyance by the Secretary as provided hereby.

* * * * *

§ 1613. Conveyance of lands

[*See main edition for text of (a) to (g)*]

(h) Authorization of land conveyances

The Secretary is authorized to withdraw and convey 2 million acres of unreserved and unappropriated public lands located outside the areas withdrawn by sections 1610 and 1615 of this title, and[1] follows:

[*See main edition for text of (1) to (7)*]

(8)(A) Any portion of the 2 million acres not conveyed by this subsection shall be allocated and conveyed to the Regional Corporations on the basis of population.

(B) Such allocation as the Regional Corporation for southeastern Alaska shall receive under this paragraph shall be selected and conveyed from lands that were withdrawn by sections 1615(a) and 1615(d) of this title and not selected by the Village Corporations in southeastern Alaska; except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas are not available for selection or conveyance under this paragraph.

(As amended Pub. L. 95-178, § 2, Nov. 15, 1977, 91 Stat. 1369.)

AMENDMENTS

1977—Subsec. (h)(8). Pub. L. 95-178 designated existing provisions as subpar. (A) and added subpar. (B).

§ 1615. Withdrawal and selection of public lands; funds in lieu of acreage

[*See main edition for text of (a)*]

(b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 18, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

[*See main edition for text of (c) and (d)*]

(As amended Pub. L. 95-178, § 1, Nov. 15, 1977, 91 Stat. 1369.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-178 struck out provisions relating to allocations received by the Regional Corporation for the southeastern Alaska region under section 1613(h)(8) of this title and selection and conveyance of such allocated lands.

§ 1628. Assignments by Regional Corporations of rights to receive payments from Fund

(a) Recognition by Secretary; scope of recognition

Notwithstanding the provision of section 203 of title 31, the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 1606 of this title.

(b) Nonrecognition by Secretary

The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) Claims against Secretary by stockholders of Regional or Village Corporation for recognition of assignment

No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

(Pub. L. 92-203, § 31, as added Pub. L. 95-178, § 4, Nov. 15, 1977, 91 Stat. 1370.)

CHAPTER 35—FEDERAL LAND POLICY AND MANAGEMENT

SUBCHAPTER II—LAND USE PLANNING AND LAND ACQUISITION AND DISPOSITION

§ 1716. Exchanges of public lands or interests therein within the National Forest System

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715, 1718, 1719 of this title; title 30 section 1260.

SUBCHAPTER V—RIGHTS-OF-WAY

§ 1761. Grant, issue, or renewal of rights-of-way; authorized purposes; procedures applicable

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

[1] So in original. Probably should be "as".

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

This title was enacted by Pub. L. 90-620, § 1, Oct. 22, 1968, 82 Stat. 1238

CHAPTER 1—JOINT COMMITTEE ON PRINTING

§ 103. Joint Committee on Printing: remedial powers

PROCUREMENT OF SERVICES OF CONSULTANTS

Repeated by Pub. L. 95-94, title I, § 115, Aug. 5, 1977, 91 Stat. 669.

CHAPTER 3—GOVERNMENT PRINTING OFFICE

§ 309. Revolving fund for operation and maintenance of Government Printing Office: capitalization; reimbursements and credits; accounting and budgeting; reports

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1509 of this title.

CHAPTER 5—PRODUCTION AND PROCUREMENT OF PRINTING AND BINDING

Sec.
505. Sale of duplicate plates.

AMENDMENTS

1976—Pub. L. 94-553, § 105(a)(2), Oct. 19, 1976, 90 Stat. 2599, in item 505 struck out "; copyright" following "plates".

§ 505. Sale of duplicate plates

The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.

(As amended Pub. L. 94-553, § 105(a)(1), Oct. 19, 1976, 90 Stat. 2599.)

AMENDMENTS

1976—Pub. L. 94-553 struck out provision that a publication could not be copyrighted if it was reprinted from additional or duplicate plates purchased from the government from which government publications had been printed or if it was reprinted from other government publications.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

CHAPTER 7—CONGRESSIONAL PRINTING AND BINDING

§ 721. Congressional Directory

(a) There shall be prepared under the direction of the Joint Committee on Printing (1) a Congressional Directory, which shall be printed and distributed as early as practicable during the first session of each Congress and (2) a supplement to each Congressional Directory, which shall be printed and distributed as early as practicable during the second regular session of each Congress. The Joint Committee shall control the number and distribution of the Congressional Directory and each supplement.

(b) One copy of the Congressional Directory delivered to Members of the Senate and the House of Representatives (including Delegates and the Resident Commissioner) shall be bound in cloth and imprinted on the cover with the name of the Member. Copies of the Congressional Directory delivered to depository libraries may be bound in cloth. All other copies of the Congressional Directory shall be bound in paper and names shall not be imprinted thereon, except that copies printed for sale under section 722 may be bound in cloth.

(As amended Pub. L. 95-94, title IV, § 404, Aug. 5, 1977, 91 Stat. 682.)

AMENDMENTS

1977—Pub. L. 95-94 designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted provisions relating to distribution of initial and supplementary Directories for provisions requiring preparation of three editions of the Directory during the first session of each Congress and two editions during each second regular session of Congress, struck out provisions relating to the distribution of the first edition and provisions relating to cloth binding for copies delivered to Senators and Representatives, and added subsec. (b).

§ 722. Congressional Directory: sale

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 721 of this title.

CHAPTER 9—CONGRESSIONAL RECORD

§ 906. Congressional Record: gratuitous copies; delivery; subscriptions

The Public Printer shall furnish the Congressional Record only as follows:

of the bound edition—

to the Senate Service Department five copies for the Vice President and each Senator;

to the Secretary and Sergeant at Arms of the Senate, each, two copies;

to the Joint Committee on Printing not to exceed one hundred copies;

to the House of Representatives Publications Distribution Service, three copies for each Representative and Resident Commissioner in Congress; and

to the Clerk, Sergeant at Arms, and Doorkeeper of the House of Representatives, each, two copies;

of the daily edition—

to the Vice President, one hundred copies;

to each Senator, fifty copies (which may be transferred only to public agencies and institutions);

to the Secretary and Sergeant at Arms of the Senate, each, twenty-five copies;

to the Secretary, for official use, not to exceed thirty-five copies; and

to the Sergeant at Arms for use on the floor of the Senate, not to exceed fifty copies;

to each Member of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands, thirty-four copies (which may be transferred only to public agencies and institutions);

to the Clerk, Sergeant at Arms, and Doorkeeper of the House of Representatives, each, twenty-five copies;

to the Clerk, for official use, not to exceed fifty copies, and to the Doorkeeper for use on the floor of the House of Representatives, not to exceed seventy-five copies;

to the Vice President and each Senator, Representative, and Resident Commissioner in Congress (and not transferable) three copies of which one shall be delivered at his residence, one at his office, and one at the Capitol.

In addition to the foregoing the Congressional Record shall also be furnished as follows:

[*See main edition for particular distribution listing*]

Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered promptly on the day after the actual day's proceedings as originally published. Each order for the daily Record shall begin with the current issue, if previous issues of the same session are not available. The apportionment specified for daily copies may not be transferred for the bound form and an allotment of daily copies not used by a Member during a session shall lapse when the session ends.

(As amended Pub. L. 95-94, title IV, § 407(a), Aug. 5, 1977, 91 Stat. 683.)

AMENDMENTS

1977—Pub. L. 95-94 substituted "to the Vice President, one hundred copies; to each Senator, fifty copies (which may be transferred only to public agencies and institutions);" for "to the Vice President and each Senator, one hundred copies;" and "to each Member of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands, thirty-four copies (which may be transferred only to public agencies and institutions);" for "to each Representative and Resident Commissioner in Congress, sixty-eight copies".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 407(b) of Pub. L. 95-94 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1977."

CHAPTER 15—FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

Sec.
1509. Costs of publication, etc.

AMENDMENTS

1977—Pub. L. 95-94, title IV, § 408(a)(2), Aug. 5, 1977, 91 Stat. 683, substituted "Costs of publication, etc." for "Cost of publication; appropriations authorized; penalty mail privilege" in item 1509.

§ 1509. Costs of publication, etc.

(a) The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be charged to the revolving fund provided in section 309. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in section 309(b).

(b) The cost of printing, reprinting, wrapping, binding, and distributing all other publications of the Federal Register program, and other expenses incurred by the Government Printing Office in connection with such publications, shall be borne by the appropriations to the Government Printing Office and the appropriations are made available, and are authorized to be increased by additional sums necessary for the purposes, the increases to be based upon estimates submitted by the Public Printer.

(As amended Pub. L. 95-94, title IV, § 408(a)(1), Aug. 5, 1977, 91 Stat. 683.)

AMENDMENTS

1977—Pub. L. 95-94 in the section catchline substituted "Costs of publication, etc." for "Cost of publication; appropriations authorized; penalty mail privilege" and in text added subsec. (a), designated former first paragraph as subsec. (b) and, in subsec. (b) as so designated, added provision restricting coverage to the other publications of the Federal Register program and struck out provision requiring payments for the Federal Register to be covered into the Treasury as miscellaneous receipts and former second paragraph relating to penalty mail privileges for the Federal Register.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 408(b) of Pub. L. 95-94 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1977".

CHAPTER 17—DISTRIBUTION AND SALE OF PUBLIC DOCUMENTS

§ 1708. Prices for sales copies of publications; crediting of receipts; resale by dealers; sales agents

The price at which additional copies of Government publications are offered for sale to the public by the Superintendent of Documents shall be based on the cost as determined by the Public Printer plus 50 percent. A discount of not to exceed 25 percent may be allowed to book dealers and quantity purchasers, but the printing may not interfere with prompt execution of work for the Government. Receipts from general sales of publications in excess of the total costs and expenses incurred in connection with the publication and sale thereof, as determined by the Public Printer, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

[*See main edition for text of second par.*]

(As amended Pub. L. 95-94, title IV, § 409(a), Aug. 5, 1977, 91 Stat. 683.)

AMENDMENTS

1977—Pub. L. 95-94 substituted "Receipts from general sales of publications in excess of the total costs and expenses incurred in connection with the publication and sale thereof, as determined by the Public Printer," for "Surplus receipts from sales".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 409(b) of Pub. L. 95-94 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1977".

CHAPTER 19—DEPOSITORY LIBRARY PROGRAM

§ 1905. Distribution to depositories; designation of additional libraries; justification; authorization for certain designations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1910 of this title; title 17 section 707.

CHAPTER 21—ARCHIVAL ADMINISTRATION

§ 2113. Limitation on liability

When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.

(As amended Pub. L. 94-553, § 105(b), Oct. 19, 1976, 90 Stat. 2599.)

AMENDMENTS

1976—Pub. L. 94-553 substituted "productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights" for "productions, exclusive of material copyrighted or patented, come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of literary property rights or analogous rights".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

CHAPTER 29—RECORDS MANAGEMENT BY ADMINISTRATOR OF GENERAL SERVICES

§ 2901. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3102 of this title; title 17 section 704.

CHAPTER 35—COORDINATION OF FEDERAL REPORTING SERVICES

§ 3502. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3510, 3512 of this title; title 20 section 1221e-1; title 30 section 1211.

§ 3512. Information for independent regulatory agencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 1211.

CHAPTER 9—RETIREMENT OF RAILROAD EMPLOYEES

SUBCHAPTER IV—RAILROAD RETIREMENT ACT OF 1974

§ 231b. Computation of annuities

[*See main edition for text of (a) to (e)*]

(f) Reductions in annuities

(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act [42 U.S.C. 301 et seq.], and disregarding any increases in such total amount which become effective after the date on which such begins to accrue, exceed an amount equal to the sum of individual's annuity under section 231a(a)(1) of this title (A) 100 per centum of his "final average monthly compensation" up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of title 26) for the calendar year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue, plus (B) 80 per centum of so much of his "final average monthly compensation" as exceeds 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of title 26) for the calendar year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c), and (d) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the "final average monthly compensation" of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue by 24. For purposes of this subdivision, the term "compensation" shall include "compensation" as defined in section 231(h) of this title, "wages" as defined in section 209 of the Social Security Act [42 U.S.C. 409], "self-employment income" as defined in section 211(b) of the Social Security Act [42 U.S.C. 411(b)], and wages deemed to have been paid under section 217 or 229 of the Social Security Act [42 U.S.C. 417, 429] on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977.

[*See main edition for text of (2) and (3); (g) to (m)*]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 358(a), 91 Stat. 1556.)

Amendments

1977—Subsec. (f)(1). Pub. L. 95-216 substituted "Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977" for "Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income".

Effective Date of 1977 Amendment

Section 358(b) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsec. (f)(1) of this section] shall be effective January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 231, 231a, 231c, 231e, 231f, 231n, 231r of this title; title 42 sections 405, 410, 430.

CHAPTER 11—RAILROAD UNEMPLOYMENT INSURANCE

§ 358. Contributions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 360, 404 of this title; title 26 section 51.

CHAPTER 14—RAIL PASSENGER SERVICE

SUBCHAPTER—PROVISION OF RAIL PASSENGER SERVICES

§ 563. Rail Service beyond basic system

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 564, 601, 762 of this title; title 49 section 1614.

CHAPTER 16—REGIONAL RAIL REORGANIZATION

SUBCHAPTER II—UNITED STATES RAILWAY ASSOCIATION

§ 712. General powers and duties of the Association

(a) General

To carry out the purposes of this chapter, the Association is authorized to—

[*See main edition for text of (1) to (6)*]

(7) consult with the Secretary of the Army and the Chief of Engineers and request the assistance of the Corps of Engineers, and the Secretary of the Army may direct the Corps of Engineers to cooperate fully with the Association, the Corporation, or any entity designated in accordance with section 716(c)(1)(C) of this title in order to carry out the purposes of this chapter;

[*See main edition for text of (a)(8) to (d)*]

(e) Reports

The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Association during the preceding fiscal year. Each such report shall include (A) the Association's statement of specific and detailed objectives for the activities and programs conducted and assisted under this chapter; (B) statements of the Association's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this chapter, measured through the end of the preceding fiscal year; (C) recommendations with respect to any legislation or administrative action which the Association deems necessary or desirable; (D) a statistical compilation of the obligations issued, certificates of value issued, securities purchased, and loans made under this chapter; (E) a summary of outstanding problems confronting the Association, in order of priority; (F) all other information required to be submitted to the Congress pursuant to any other provision of this chapter; and (G) the Association's projections and plans for its activities and programs during the next fiscal year.

(2)[1] For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Association shall transmit to the Congress and the President, not later than 30 days after the end of each quarter of such fiscal year, a comprehensive and detailed report on all expenditures and use of funds during the preceding fiscal quarter, including an assessment of the status of projects for such preceding fiscal quarter and a projection of activities proposed for the next fiscal quarter.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-199, § 2, Nov. 23, 1977, 91 Stat. 1423.)

CODIFICATION

Subsec. (a)(7) is set out in this supplement to correct typographical error appearing in the main edition.

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-199 in subsec. catchline substituted "Reports" for "Annual report", in first par. redesignated cls. (1) through (7) as cls. (A) through (G), and added par. (2).

§ 719. Judicial review

[*See main edition for text of (a) to (g)*]

(h) Special masters

(1) The special court may appoint and fix the compensation and assign the duties of such special masters as it considers necessary or appropriate to conduct hearings, receive evidence and report thereon to the special court, and perform such other acts as the special court may require. The special court may employ such special masters by contract or otherwise, without regard to section 5 of title 41 or part III of title 5, on such terms and conditions as it may determine. Such special masters shall not be deemed to be employees of the Federal Government or any department, agency, or instrumentality thereof. The special court may also appoint employees in such number as may be approved by the Director of the Administrative Office of the United States Courts, and may procure such administrative services as may be necessary for it or the special masters to complete their assignments expeditiously.

(2) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection. Sums appropriated under this subsection are authorized to remain available until expended.

(As amended Pub. L. 95-199, § 3, Nov. 23, 1977, 91 Stat. 1423.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-199 added subsec. (h).

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[1] So in original. Subsec. contains no par. designated as "(1)".

§ 724. Authorization of appropriations

[*See main edition for text of (a) and (b)*]

(c) Association

For the fiscal year ending September 30, 1978, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this chapter such sums as are necessary, not to exceed $23,000,000. Sums appropriated under this subsection are authorized to remain available until September 30, 1979.

(As amended Pub. L. 95-199, § 1, Nov. 23, 1977, 91 Stat. 1423.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-199 substituted provisions authorizing appropriations for the fiscal year ending Sept. 30, 1978, of not to exceed $23,000,000 and authorizing availability of sums to Sept. 30, 1979, for provisions authorizing appropriations for the period beginning May 1, 1976, and ending Sept. 30, 1977, of not to exceed $20,000,000 and authorizing availability of sums to Sept. 30, 1978.

SUBCHAPTER III—CONSOLIDATED RAIL CORPORATION

§ 743. Valuation and conveyance of rail properties

[*See main edition for text of (a) to (c)*]

(d) Appeal

A finding or determination entered by the special court pursuant to subsection (c) of this section or section 746 of this title may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28: *Provided*, That such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after such finding or determination is entered by the special court. The Supreme Court shall dismiss any such appeal within 7 days after the entry of such an appeal if it determines that such an appeal would not be in the interest of an expeditious conclusion of the proceedings and shall grant the highest priority to the determination of any such appeals which it determines not to dismiss.

[*See main edition for text of (e)*]

(As amended Pub. L. 95-199, § 4, Nov. 23, 1977, 91 Stat. 1424.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-199 substituted "entered by the special court pursuant to subsection (c) of this section or section 746 of this title" for "entered pursuant to subsection (c) of this section".

§ 744. Termination and continuation of rail services

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 715, 742, 762, 763 of this title; title 49 sections 1613, 1614.

§ 746. Certificate of value

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 712, 743 of this title; title 26 section 374.

TITLE 46—SHIPPING

Chap. Sec.
34. Safe Containers for International Cargo [New] 1501

CHAPTER 2A—LOAD LINES FOR AMERICAN VESSELS

SUBCHAPTER II—LOAD LINES FOR VESSELS ENGAGED IN COASTWISE TRADE

§ 88. Establishment; vessels affected; exemptions

[*See main edition for text of* (*a*)]

(b) All cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska except those constructed after July 11, 1968 or those converted to either of such services after five years from July 11, 1968, and all vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, except those constructed after August 15, 1974, or those converted to any of such services after January 1, 1983, are exempt from the requirements of this subchapter.

(As amended July 1, 1977, Pub. L. 95-61, § 7(c), 91 Stat. 260.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-61 substituted "January 1, 1983" for "July 11, 1978".

CHAPTER 14—INSPECTION OF STEAM VESSELS

SUBCHAPTER I—VESSELS SUBJECT TO INSPECTION AND REGULATION

§ 367. Seagoing vessels propelled by internal-combustion engines; exemptions

Existing laws covering the inspections of steam vessels are made applicable to seagoing vessels of three hundred gross tons and over propelled in whole or in part by internal-combustion engines to such extent and upon such conditions as may be required by the regulations of the Commandant of the Coast Guard: *Provided,* That this section shall not apply to any vessel engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry. As used herein, the phrase "any vessel" engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industries includes cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations, and vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska. The exemptions in the preceding sentence for cannery tender, and fishing tender vessels and vessels used in processing or assembling fishery products shall continue in force until January 1, 1983: *Provided further,* That as to licenses required for masters and engineers operating vessels propelled by internal-combustion engines operating exclusively in the district covering the Hawaiian Islands, said masters and engineers shall be under the jurisdiction of the Coast Guard officials having jurisdiction over said waters, who shall make diligent inquiry as to the character, merits, and qualifications, and knowledge and skill of any master or engineer applying for a license. If the said Coast Guard officials shall be satisfied from personal examination of the applicant and from other proof submitted that the applicant possesses the requisite character, merits, qualifications, knowledge, and skill, and is trustworthy and faithful, they shall grant him a license for the term of five years to operate such vessel under the limits prescribed in the license. The term "seagoing vessels" as used in this section shall be construed to mean vessels which in the usual course of their employment proceed outside the line dividing the inland waters from the high seas as designated and determined under the provisions of section 151 of title 33.

(As amended July 1, 1977, Pub. L. 95-61, § 7(b), 91 Stat. 260.)

AMENDMENTS

1977—Pub. L. 95-61 extended the termination date for the exemptions covering cannery tender and fishing tender vessels and vessels used in processing or assembling fishery products from July 11, 1978, to Jan. 1, 1983.

SUBCHAPTER V—MODE, MANNER, AND EXTENT OF INSPECTION; CERTIFICATES; RECORDS

§ 404. Inspection of ferryboats, canal boats, and small craft; regulations; exemptions

The hulls and boilers of every ferryboat, canal boat, yacht or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the Secretary of the department in which the Coast Guard is operating, also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided,* That in open steam launches of ten gross tons and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above fifteen gross tons carrying freight for hire and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be subject to all the provisions of this section relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of title 52 of the Revised Statutes applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections 494 to 498 of this title, relating to the imposition and enforcement of penalties and the enforcement of law: *Provided, however,* That until June 30, 1956, no vessel registered or licensed as a vessel of the United States of fifteen gross tons or less on December 31, 1953, shall be deemed to be subject to the inspection provisions of this section notwithstanding the fact that such vessel may thereafter be found to have a tonnage in excess of fifteen gross tons, unless such finding results from an alteration in the length, breadth, or depth effected after December 31, 1953: *Provided, further,* That no vessel under one hundred and fifty gross tons, owned by or demise chartered to any cooperative or association engaged solely in transporting cargo owned by any one or more of the members of such cooperative or association on a nonprofit basis (1) between places within the inland waters of southeastern Alaska, as defined pursuant to section 151 of title 33, or (2) between places within said inland waters of southeastern Alaska and Prince Rupert, British Columbia, or (3) between places within said inland waters of southeastern Alaska and places within the inland waters of the State of Washington, as also defined pursuant to such section, via sheltered waters, as defined in article I, of the Treaty between United States and Canada defining certain waters of the west coast of North America as sheltered waters, dated December 9, 1933, shall be deemed to be carrying freight for hire within the meaning of this section. As used herein, the phrase "engaged in fishing as a regular business" includes cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations, and vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska. The exemptions in the preceding sentence for cannery tender, fishing tender vessels and vessels used in processing or assembling of fishery products shall continue in force until January 1, 1983.

(As amended July 1, 1977, Pub. L. 95-61, § 7(a), 91 Stat. 260.)

AMENDMENTS

1977—Pub. L. 95-61 extended the termination date for the exemptions covering cannery tender and fishing tender vessels and vessels used in processing or assembling of fishery products from July 11, 1978, to Jan. 1, 1983.

CHAPTER 27—MERCHANT MARINE ACT, 1936

SUBCHAPTER II—CREATION AND FUNCTIONS OF MARITIME AGENCIES

§ 1119. Authorization of appropriations

[*See main edition for text of* (a)]

(b) Notwithstanding any other provision of this chapter or any other law, there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for—

[*See main edition for text of* (1) *to* (6)]

(7) financial assistance to State Marine Schools;

(8) the Vessel Operations Revolving Fund;

(9) expenses necessary for extension and correspondence courses authorized under section 1126(c) of this title; and

(10) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, or general administration;

only such sums as the Congress may specifically authorize by law: *Provided, however,* That the Congress finds and declares that the national policy set forth in section 1101 of this title requires that there should be authorized and appropriated for fiscal years 1971 through 1980 such sums as may be necessary to construct 300 ships of such sizes, types and designs as the Secretary of Commerce may consider best suited to carry out the purposes and policy of this chapter.

(As amended Nov. 12, 1977, Pub. L. 95-173, § 6(a), 91 Stat. 1360.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-173 added pars. (9) and (10).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 6(b) of Pub. L. 95-173 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective for fiscal years beginning after September 30, 1978."

§ 1126. Training of Merchant Marine personnel

[*See main edition for text of (a) and (b)*]

(c) Extension and correspondence courses; authorization of purchases

The Secretary of Commerce is authorized to prescribe, conduct, and supervise such extension and correspondence courses as he may deem necessary to supplement other training facilities, and to make such courses available, under such rules and regulations and upon such terms as he may prescribe, to the licensed and unlicensed personnel of the merchant marine, and to cadets and cadet officers, who shall make application therefor. The Secretary of Commerce is further authorized to print, publish, and purchase suitable textbooks, equipment, and supplies required for such courses, and to employ persons, firms, and corporations on a contract or fee basis (without regard to the provisions of section 5 of title 41), for the performance of special services deemed necessary by the Secretary of Commerce in the preparation and editing of such textbooks and other aids to instruction, and in the supervision and administration of such courses.

(d) Cooperation of governmental agencies

The Secretary of Commerce, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section, as amended.

[*See main edition for text of (e) and (f)*]

(As amended Nov. 12, 1977, Pub. L. 95-173, § 7, 91 Stat. 1360.)

AMENDMENTS

1977—Subsecs. (c), (d). Pub. L. 95-173 substituted "Secretary of Commerce" for "Commission" wherever appearing therein. "Secretary of Commerce" and "Secretary" had previously been substituted for "Commission" on authority of 1950 Reorg. Plan No. 21 and section 1244(e) of this title. See Transfer of Functions note set out under this section in the 1976 Edition of the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1119, 1386 of this title.

SUBCHAPTER V—CONSTRUCTION-DIFFERENTIAL SUBSIDY

§ 1159. Vessels to be operated in domestic trade; terms and conditions of construction aid and sale to purchaser

Any citizen of the United States may make application to the Secretary of Commerce for aid in the construction of a new vessel to be operated in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively). If such application is approved by the Secretary of Commerce, the vessel may be constructed under the terms and conditions of this subchapter, but no construction-differential subsidy shall be allowed. The Secretary of Commerce shall pay for the cost of national-defense features incorporated in such vessel. In case the vessel is designed to be of not less than three thousand five hundred gross tons and to be capable of sustained speed of not less than fourteen knots, or in the case of a passenger vessel operating solely on the inland rivers and waterways which is designed to be of not less than one thousand gross tons and to be capable of sustained speed of not less than eight knots, or in the case of a ferry operating solely in point-to-point transportation which is designed to be of not less than seventy-five gross tons and to be capable of a sustained speed of not less than eight knots, in the case of an oceangoing tug of more than two thousand five hundred horsepower or oceangoing barge of more than two thousand five hundred gross tons, or in the case of a vessel of more than two thousand five hundred horsepower designed to be capable of sustained speed of not less than forty knots, the purchaser shall be required to pay the Secretary of Commerce not less than 12½ per centum of the cost of such vessel, and in the case of any other vessel the purchaser shall be required to pay the Secretary of Commerce not less than 25 per centum of the cost of such vessel (excluding from such cost, in either case, the cost of national defense features); and the balance of such purchase price shall be paid by the purchaser within twenty-five years in not to exceed twenty-five equal annual installments, with interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs, the balance of such purchase price being secured by a preferred mortgage on the vessel sold and otherwise secured as the Secretary of Commerce may determine: *Provided*, That, notwithstanding any other provisions of law, the balance of the purchase price of a passenger vessel constructed under this section which is delivered subsequent to March 8, 1946, and which has the tonnage, speed, passenger accommodations, and other characteristics set forth in section 1153 of this title, may, with the ap-

proval of the Secretary of Commerce, be secured as provided in such section, and the obligation of the purchaser of such a vessel shall be satisfied and discharged as provided in such section.

(As amended Nov. 12, 1977, Pub. L. 95-173, § 8, 91 Stat. 1360.)

AMENDMENTS

1977—Pub. L. 95-173 inserted ", or in the case of a ferry operating solely in point-to-point transportation which is designed to be of not less than seventy-five gross tons and to be capable of a sustained speed of not less than eight knots" following "less than eight knots".

§ 1160. Acquisition of obsolete vessels

[See main edition for text of (a) to (h)]

(i) Exchange of vessels; valuation; scrapping of traded out vessels

The Secretary of Commerce is authorized to acquire mariner class vessels constructed under subchapter VII of this chapter and Public Law 911, Eighty-first Congress, and other suitable vessels, constructed in the United States, which have never been under foreign documentation, in exchange for obsolete vessels in the National Defense Reserve Fleet. For purposes of this subsection, the trade-in and trade-out vessels shall be valued at the higher of their scrap value in domestic or foreign markets as of the date of the exchange: *Provided,* That in any exchange transactions, the value assigned to the traded-in and traded-out vessels will be determined on the same basis. The value of the traded-out vessels shall be as nearly as possible equal to the value of the traded-in vessel plus the fair value of the cost of towing the traded-out vessel to the place of scrapping. To the extent the value of the traded-out vessel exceeds the value of the traded-in vessel plus the fair value of the cost of towing, the owner of the traded-in vessel shall pay the excess to the Secretary of Commerce in cash at the time of exchange. This excess shall be deposited into the Vessel Operations Revolving Fund and all costs incident to the lay-up of the vessels acquired under this chapter may be paid from balances in the Fund. No payments shall be made by the Secretary of Commerce to the owner of any traded-in vessel in connection with any exchange under this subsection. Notwithstanding the provisions of sections 808 and 835 of this title, vessels traded out under this subsection may be scrapped in approved foreign markets. The provision of this subsection (i) as it read prior to the 1975 amendment shall govern all transactions made thereunder prior to that amendment.

[See main edition for text of (j)]

(As amended Nov. 15, 1977, Pub. L. 95-177, 91 Stat. 1368.)

AMENDMENTS

1977—Subsec. (i). Pub. L. 95-177 struck out ", within two years after the enactment of this subsection," following "is authorized" and "that are scheduled for scrapping" following "National Defense Reserve Fleet", inserted "and other suitable vessels, constructed in the United States, which have never been under foreign documentation," following "Eighty-first Congress,", and substituted "the trade-in and trade-out vessels" for "the traded-in and traded-out vessels" and "the 1975 Amendment" for "this amendment".

SUBCHAPTER VII—PRIVATE CHARTER OPERATION

§ 1206. Construction of nuclear-powered merchant ship; appropriations; special services; cooperation with other Federal agencies

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 31—MARITIME ACADEMY PROGRAM

§ 1383. Contracts for assistance

The Secretary may enter into agreements with not more than one maritime academy or college, which meets the requirements of this chapter, in each State or Territory, to make annual payments to such academy or college for not in excess of four years in the case of each such agreement, to be used for the maintenance and support of such academy or college. Such payments for any year to any maritime academy or college shall be an amount equal to the amount furnished to such academy or college for its maintenance and support by the State or Territory in which such academy or college is located, except that such payments to any academy or college for any year shall not exceed $100,000 or $25,000 if such academy or college does not meet the requirement of section 1384(b) of this title.

(As amended Pub. L. 95-173, § 4, Nov. 12, 1977, 91 Stat. 1359.)

AMENDMENTS

1977—Pub. L. 95-173 substituted "$100,000" for "$75,000".

§ 1385. Subsistence payments

(a) The Secretary may enter into agreements, with each academy or college with which he contracts under section 1383 of this title to make payments, at a rate not in excess of $1,200 per academic year per student, to such academy or college, with respect to each student attending such academy or college. Such payments (1) shall be used to assist in defraying the cost of uniforms, books, and subsistence for such student, (2) shall commence to accrue on the day such student begins his first term of work at such academy or college, and (3) shall be paid to such academy or college in such installments as the Secretary shall prescribe, while such student is in attendance and until the completion of his course of instruction, but

in no event for more than four academic years for any one student.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-173, § 5, Nov. 12, 1977, 91 Stat. 1359.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-173 substituted "$1,200" for "$600".

CHAPTER 34—SAFE CONTAINERS FOR INTERNATIONAL CARGO [NEW]

Sec.
1501. Definitions.
1502. Duties of owners of containers.
(a) Initial approval of containers; periodic examination.
(b) Approval of existing containers.
1503. Duties of Secretary of Transportation.
(a) Enforcement.
(b) Regulations.
(c) Affixation of approval plate; delegation of authority; fees.
(d) Method of delegating authority.
(e) Intermodal transport.
1504. Areas of enforcement.
(a) Examination of containers; detention orders; restriction or removal of containers from service.
(b) Costs of examinations.
(c) Presumption of safe condition.
(d) Notification of detention or other order; duration of order.
(e) Notification to foreign country of defect at time of approval.
1505. Penalties.
(a) Civil penalty.
(b) Assessment, collection, remission, mitigation, and compromise of penalties.
1506. Employee protection.
(a) Discrimination against a reporting employee prohibited.
(b) Complaint alleging discrimination.
(c) Investigation by Secretary of Labor; judicial relief.
(d) Notification to complainant of intended action.
1507. Amendments to Convention.
(a) Proposed amendments; advice and consent of Senate; declaration of non-acceptance.
(b) Amendment of Convention annexes.
(c) Appointment of arbitrator.
1508. Authorization of appropriations.

§ 1501. Definitions

As used in this chapter—

(a) The term "Secretary" means the Secretary of Transportation.

(b) The term "Convention" means the International Convention for Safe Containers, and the annexes thereto, done at Geneva, Switzerland, December 2, 1972.

(c) The term "container" shall have the same meaning as that term is defined in the Convention.

(d) The term "international transport" means the transportation of a container—

(1) to any place within the jurisdiction of the United States from a place within a foreign country;

(2) by United States carriers between two points both of which are outside of the United States; or

(3) from any place within the jurisdiction of the United States to any place within a foreign country.

(e) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(f) The term "new container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport, the construction of which began on or after September 6, 1977.

(g) The term "existing container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport and which is not a new container.

(h) The term "owner" means a person who owns a container, or, if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container, the lessee or bailee of a container, to the extent such agreement so provides.

(i) The term "safety approval plate" shall have the same meaning as that term is defined in annex I of the Convention.

(Pub. L. 95-208, § 2, Dec. 13, 1977, 91 Stat. 1475.)

SHORT TITLE

Section 1 of Pub. L. 95-208 provided: "That this Act [enacting this chapter] may be cited as the 'International Safe Container Act'."

§ 1502. Duties of owners of containers

(a) Initial approval of containers; periodic examination

Beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, for new containers, and beginning on September 6, 1982, for existing containers, the owner of each such container—

(1) who is domiciled and has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the Secretary; and

(2) who is either domiciled or has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure

established by the administration of either the country where he is domiciled or has his principal office (so long as such country is a party to the Convention).

Any owner of either a new or existing container who is neither domiciled nor maintains a principal office in the United States, or in any other country which is a party to the Convention, may submit their containers for approval and periodic examination according to the procedure established by the Secretary.

(b) Approval of existing containers

During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before September 6, 1982, an owner of an existing container may have such container approved according to the procedure established by the Secretary, and have a safety approval plate affixed to it, if such container is found to meet the standards of the Convention.

(Pub. L. 95-208, § 3, Dec. 13, 1977, 91 Stat. 1476.)

§ 1503. Duties of Secretary of Transportation

(a) Enforcement

On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, the Secretary shall enforce and carry out the provisions of the Convention, and, unless an earlier date is specifically provided, the provisions of this chapter, in the United States.

(b) Regulations

The Secretary shall, as soon as practicable after December 13, 1977, promulgate, and from time to time, amend, those regulations he deems necessary for such enforcement. Such regulations, among other things, shall—

(1) establish procedures for the testing, inspection, and initial approval of existing and new containers and of designs for new containers, including procedures relating to the affixing, invalidating, and removal of safety approval plates for containers;

(2) establish procedures to be followed by owners of containers relating to the periodic examination of containers, as provided in the Convention; and

(3) provide a method for developing, collecting, and disseminating data concerning container safety and the international transport of containers.

(c) Affixation of approval plate; delegation of authority; fees

At any time after December 13, 1977, the Secretary may—

(1) authorize the affixation of a safety approval plate to any container which, after examination, is found not to have a safety approval plate attached to it and which the owner has established meets the standards of the Convention;

(2) delegate and withdraw the delegation of authority to initially approve existing and new containers and designs for new containers, and to authorize the affixing of safety approval plates; and

(3) establish a schedule of fees to be charged and collected for services performed by the Secretary, or under authority delegated by the Secretary, relating to the testing, inspection, and initial approval of containers and container designs.

(d) Method of delegating authority

Those delegations made under subsection (c)(2) of this section may be made to any person, including any public or private agency or nonprofit organization. The Secretary[1] before making any delegation under such subsection, shall promulgate regulations relating to—

(1) the criteria to be followed in selecting a person, public or private agency, or nonprofit organization as a recipient of delegated functions under such subsection;

(2) the manner in which such recipient shall carry out such delegated functions, including the records such recipient must keep, and a detailed description of the exact functions such recipient may exercise; and

(3) the review that will be carried out by the Secretary to determine that any recipient of delegated functions is performing properly the functions so delegated.

No recipient of authority delegated under such subsection may assess or collect, or attempt to assess or collect, any penalty for violation of any provision of this chapter, the Convention, or any order of the Secretary issued under this chapter, or issue or attempt to issue any detention or other order. Any records required to be kept by regulations promulgated by the Secretary under this subsection shall be available to the Secretary, for inspection, upon request. The name and address of the recipient, if other than the owner, together with the functions so delegated and the period of designation, shall be published in the Federal Register and otherwise publicized as appropriate.

(e) Intermodal transport

The Secretary shall, to the maximum possible extent, encourage the development and use of intermodal transport, using containers constructed to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading while such cargo is in transport over land, air, and sea areas.

(Pub. L. 95-208, § 4, Dec. 13, 1977, 91 Stat. 1476.)

§ 1504. Areas of enforcement

(a) Examination of containers; detention orders; restriction or removal of containers from service

(1) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, to ensure compliance with this chapter, and with the Convention, the Secretary may—

(A) examine, or require to be examined, new containers, and existing containers which are subject to this chapter, in international transport, and test, inspect, and approve de-

[1] So in original. Probably should be followed by a comma.

signs for new containers and new containers being manufactured;

(B) issue a detention order removing or excluding a container from service until the owner of the container establishes to the Secretary's satisfaction that the container meets the standards of the Convention, if the container is subject to this chapter and does not have a valid safety approval plate attached to it, or if there is significant evidence that such a container bearing a safety approval plate is in a condition which creates an obvious risk to safety; and

(C) take whatever other appropriate action he deems necessary, including issuance of any necessary orders, to remove the container involved from service, or restrict its use, in those instances where he finds that a container is not in compliance with the provisions of this chapter or the Convention but does not present an obvious risk to safety.

The Secretary may permit the movement to another location of a container which he finds to be unsafe or which does not have a valid safety approval plate affixed to it, under whatever restriction he considers necessary and consistent with the intent of the Convention, for repair or other appropriate disposition.

(2) Beginning on September 6, 1982, the Secretary may examine or require to be examined any existing container in international transport.

(b) Costs of examinations

The owner of the container involved in any action taken by the Secretary under this section with respect to an examination of a container, shall pay for or reimburse the Secretary for expenses arising from such actions, except for the costs of routine examinations of containers or safety approval plates. In addition, the owner of containers submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturers who submit designs of containers to the procedures established by the Secretary for testing, inspection, and initial approval shall pay for or reimburse the Secretary for the expenses arising from such testing, inspection or approval. Funds received by the Secretary in reimbursement shall be credited to the appropriations bearing the cost thereof.

(c) Presumption of safe condition

A container bearing a safety approval plate authorized by a country which is a party to the Convention shall be presumed to be in a safe condition unless there is significant evidence that the container creates an obvious risk to safety.

(d) Notification of detention or other order; duration of order

Whenever the Secretary issues a detention or other order under this section, he shall promptly notify, in writing, either the owner of the container subject to such order, his agent, or, when the identity of such owner is not apparent from the container of shipping documents, the custodian. The notification shall reasonably identify the container involved, give the location of the container, and reasonably describe the condition or situation which gave rise to the order. An order issued by the Secretary under this section shall remain in effect until the container is declared by the Secretary, or under regulations promulgated by the Secretary, to be in compliance with the standards of the Convention, or until it is permanently removed from service, whichever first occurs.

(e) Notification to foreign country of defect at time of approval

If there is reason to believe that a container to which there is affixed a safety approval plate issued by a foreign country was defective at the time of approval, the Secretary shall notify the country which issued the approval of such defect.

(Pub. L. 95-208, § 5, Dec. 13, 1977, 91 Stat. 1477.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1505 of this title.

§ 1505. Penalties

(a) Civil penalty

On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, any owner, agent, or custodian who—

(1) has been notified of an order issued by the Secretary under section 1504 of this title; and

(2) fails to take reasonable and prompt action to prevent or stop a container subject to that order from being moved in violation of that order;

shall be subject to a civil penalty of not more than $5,000 for each container so moved. Each day the container remains in service while the order is in effect shall be treated as a separate violation.

(b) Assessment, collection, remission, mitigation, and compromise of penalties

The Secretary shall assess and collect any penalty incurred under this section, and, in his discretion may remit, mitigate, or compromise any such penalty. No penalty shall be assessed until after the person charged has been given notice and an opportunity for a hearing. In assessing, remitting, mitigating, or compromising a penalty the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of this chapter or of the Convention. Upon failure of any person to pay any penalty assessed against him by the Secretary, the Secretary shall request the Attorney General to begin an action in any district court of the United States to recover the amount of the penalty unpaid.

(Pub. L. 95-208, § 6, Dec. 13, 1977, 91 Stat. 1478.)

§ 1506. Employee protection

(a) Discrimination against a reporting employee prohibited

No person shall discharge or in any manner discriminate against an employee because the employee has reported the existence of an unsafe container or reported a violation of this chapter to the Secretary or his agents.

(b) Complaint alleging discrimination

An employee who believes that he has been discharged or discriminated against in violation of this section may, within 60 days after the violation occurs, file a complaint alleging discrimination with the Secretary of Labor.

(c) Investigation by Secretary of Labor; judicial relief

The Secretary of Labor may investigate the complaint and, if he determines that this section has been violated, bring an action in an appropriate United States district court. The district court shall have jurisdiction to restrain violations of subsection (a) of this section and to order appropriate relief, including rehiring and reinstatement of the employee to his former position with back pay.

(d) Notification to complainant of intended action

Within 30 days after the receipt of a complaint filed under this section the Secretary of Labor shall notify the complainant of his intended action regarding the complaint.

(Pub. L. 95-208, § 7, Dec. 13, 1977, 91 Stat. 1479.)

§ 1507. Amendments to Convention

(a) Proposed amendments; advice and consent of Senate; declaration of non-acceptance

The Secretary of State, with the concurrence of the Secretary, may propose amendments to the Convention or may request a conference for amending the Convention in accordance with article IX of the Convention. An amendment communicated to the United States in accordance with article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may make a declaration that the United States does not accept an amendment.

(b) Amendment of Convention annexes

The Secretary of State, with the concurrence of the Secretary, may propose amendments to the annexes of the Convention, may propose a conference for amending annexes to the Convention and shall consider and act on amendments to the annexes of the Convention adopted by the Maritime Safety Committee and communicated to the United States in accordance with article X(2) of the Convention. If a proposed amendment is approved by the United States, the amendment shall enter into force in accordance with article X of the Convention. If any proposed amendment is objected to, the Secretary of State shall promptly communicate the objection as provided in article X(3) of the Convention.

(c) Appointment of arbitrator

The Secretary of State, with the concurrence of the Secretary, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

(Pub. L. 95-208, § 8, Dec. 13, 1977, 91 Stat. 1479.)

§ 1508. Authorization of appropriations

Beginning with the fiscal year ending September 30, 1979, and for each fiscal year thereafter, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter.

(Pub. L. 95-208, § 9, Dec. 13, 1977, 91 Stat. 1480.)

TITLE 47—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

CHAPTER 5—WIRE OR RADIO COMMUNICATION

SUBCHAPTER III—SPECIAL PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

§ 305. Government owned stations

TRANSFER OF FUNCTIONS

The Office of Telecommunications Policy, referred to in Reorg. Plan No. 1 of 1970, eff. Apr. 20, 1970, 35 F.R. 6421, 84 Stat. 2083, and Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, set out under this section in the 1976 edition of this Code, was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President, and the functions of the Office and the Director thereof were transferred to the Secretary of Commerce by section 5B of Reorg. Plan No. 1 of 1977, except for those functions of the Office and the Director thereof relating to the preparation of Presidential telecommunications policy operations and the disposition of appeals from assignments of radio frequencies to stations of the United States government, which were transferred to the President by said section 5B of Reorg. Plan No. 1 of 1977 with power to delegate within the Executive Office of the President.

PART IV—ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING

SUBPART C—GENERAL PROVISIONS

§ 397. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 17 sections 110, 111, 114, 118.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 606. War powers of President

TRANSFER OF FUNCTIONS

The Office of Telecommunications Policy, referred to in Ex. Ord. No. 10705, Apr. 17, 1957, 22 F.R. 2729, set out under this section in the 1976 edition of this Code, was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President, and the functions of the Office and the Director thereof were transferred to the Secretary of Commerce by section 5B of Reorg. Plan No. 1 of 1977, except for those functions of the Office and the director thereof relating to the preparation of Presidential telecommunications policy operations and the disposition of appeals from assignments of radio frequencies to stations of the United States government, which were transferred to the President by said section 5B of Reorg. Plan No. 1 of 1977 with power to delegate within the Executive Office of the President.

CHAPTER 6—COMMUNICATIONS SATELLITE SYSTEM

SUBCHAPTER II—FEDERAL COORDINATION, PLANNING, AND REGULATION

§ 721. Implementation of policy

TRANSFER OF FUNCTIONS

The Office of Telecommunications Policy, referred to in Ex. Ord. No. 11191, Jan. 4, 1965, 30 F.R. 29, as amended by Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, set out under this section in the 1976 edition of this Code, was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President, and the functions of the Office and the Director thereof were transferred to the Secretary of Commerce by section 5B of Reorg. Plan No. 1 of 1977, except for those functions of the Office and the director thereof relating to the preparation of Presidential telecommunications policy operations and the disposition of appeals from assignments of radio frequencies to stations of the United States government, which were transferred to the President by said section 5B of Reorg. Plan No. 1 of 1977 with power to delegate within the Executive Office of the President.

TITLE 48—TERRITORIES AND INSULAR POSSESSIONS

CHAPTER 7—THE VIRGIN ISLANDS

SUBCHAPTER I—GENERAL PROVISIONS

§ 1401f. Purchases

REPEATED

Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.

CHAPTER 8A—GUAM

SUBCHAPTER IV—THE JUDICIARY

Sec.
1424c. Review of claims respecting land on Guam [New].
(a) Jurisdiction.
(b) Acquisitions effected through condemnation proceedings.
(c) Fair compensation.
(d) Employment of special masters or judges.
(e) Awards.
(f) Limitation on attorney's fees; violation; penalty.
(g) Availability of documents, records, and writings to court.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1421. Territory included under name Guam

GUAM AND VIRGIN ISLANDS; APPLICABILITY OF LAWS REFERRED TO IN SECTION 502(a)(1) OF COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA.

Laws referred to in section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands, see section 403 of Pub. L. 95-134, set out as a note under section 1681 of this title.

§ 1421h. Duties and taxes to constitute fund for benefit of Guam

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1423a of this title; title 26 sections 932, 7651.

§ 1421i. Income tax

(a) Applicability of Federal laws; separate tax

The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam: *Provided,* That notwithstanding any other provision of law, the Legislature of Guam may levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam.

[*See main edition for text of* (*b*) *to* (*h*)]

(As amended Oct. 15, 1977, Pub. L. 95-134, title II, § 203(c), 91 Stat. 1162.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-134 added provision that the Legislature of Guam may levy a separate tax on taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam.

SUBCHAPTER II—THE EXECUTIVE BRANCH

§ 1422d. Government comptroller

(a) Creation of office; appointment, transfer, and removal

The Secretary of the Interior shall appoint in the Department of the Interior a government comptroller for Guam who shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of Guam. Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior. Sixty days prior to the effective date of transfer or removal of the government comptroller, the Secretary shall communicate to the President of the Senate and the Speaker of the House of Representatives his intention to so transfer or remove the government comptroller and his reasons therefor.

[*See main edition for text of* (*b*) *to* (*j*)]

(As amended Oct. 15, 1977, Pub. L. 95-134, title II, § 203(a), 91 Stat. 1161.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-134 substituted provisions authorizing the salary and expenses of the Comptroller's office to be paid from funds appropriated to the Department of Interior, effective Oct. 1, 1977, for provisions authorizing the salary and expenses of the Comptroller's office to be paid by the United States from funds otherwise to be covered into the treasury of Guam pursuant to section 1421h of this title.

SUBCHAPTER III—THE LEGISLATURE

§ 1423l. Purchases

REPEATED

Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.

SUBCHAPTER IV—THE JUDICIARY

§ 1424c. Review of claims respecting land on Guam

(a) Jurisdiction

Notwithstanding any law or court decision to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through judicial condemnation proceedings, in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, by the United States between July 21, 1944, and August 23, 1963, and to award fair compensation in those cases where it is determined that less than fair market value was paid as a result of (1) duress, unfair influence, or other unconscionable actions, or (2) unfair, unjust, and inequitable actions of the United States.

(b) Acquisitions effected through condemnation proceedings

Land acquisitions effected through judicial condemnation proceedings in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, shall remain res judicata and shall not be subject to review hereunder.

(c) Fair compensation

Fair compensation for purposes of this Act is defined as such additional amounts as are necessary to effect payment of fair market value at the time of acquisition, if it is determined that, as a result of duress, unfair influence, or other unconscionable actions, fair market value was not paid. Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section.

(d) Employment of special masters or judges

The District Court of Guam may employ and utilize the services of such special masters or judges as are necessary to carry out the intent and purposes hereof.

(e) Awards

Awards made hereunder shall be judgments against the United States.

(f) Limitation on attorney's fees; violation; penalty

Attorney's fees paid by claimants to counsel representing them may not exceed 5 per centum of any additional award. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both. A reasonable attorney's fee may be awarded in appropriate cases.

(g) Availability of documents, records, and writings to court

All agencies and departments of the United States Government shall, upon request, deliver to the court any documents, records, and writings which are pertinent to any claim under review.

(Pub. L. 95-134, title II, § 204, Oct. 15, 1977, 91 Stat. 1162.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 95-134, Oct. 15, 1977, 91 Stat. 1159, which enacted sections 1424c and 1469a of this title, amended sections 1421i, 1422d, 1428, 1574, 1575, 1599, and 1681b of this title, enacted provisions set out as notes under section 1681 of this title, section 7651 of Title 26, Internal Revenue Code, and section 1457 of Title 43, Public Lands, and amended provisions set out as a note under section 1681 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of act Aug. 1, 1950, ch. 512, 64 Stat. 384, known as the Organic Act of Guam, which comprises this chapter.

SUBCHAPTER VI—GUAM DEVELOPMENT FUND

§ 1428. Authorization of appropriations

(a) For the purpose of promoting economic development in the territory of Guam, there is authorized to be appropriated to the Secretary of the Interior to be paid to the government of Guam for the purposes of this subchapter the sum of $5,000,000.

(b) In addition to the appropriations authorized in subsection (a) of this section, $1,000,000 is authorized to be appropriated to the Secretary of the Interior to be paid to the government of Guam annually for five fiscal years commencing in fiscal year 1978 to carry out the purposes of this subchapter.

(As amended Pub. L. 95-134, title II, § 202, Oct. 15, 1977, 91 Stat. 1161.)

AMENDMENTS

1977—Pub. L. 95-134 designated existing provisions as subsec. (a) and added subsec. (b).

CHAPTER 10—TERRITORIAL PROVISIONS OF A GENERAL NATURE

Sec.
1469a. Congressional declaration of policy respecting "Insular Areas" [New].

§ 1469a. Congressional declaration of policy respecting "Insular Areas"

In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands

(hereafter referred to as "Insular Areas") it is declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

(Pub. L. 95-134, title V, § 501, Oct. 15, 1977, 91 Stat. 1164.)

§ 1470a. Availability of appropriations for surface vessels

REPEATED

Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.

CHAPTER 12—THE VIRGIN ISLANDS

SUBCHAPTER I—GENERAL PROVISIONS

§ 1541. Organization and status

GUAM AND VIRGIN ISLANDS; APPLICABILITY OF LAWS REFERRED TO IN SECTION 502(A)(1) OF COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

Laws referred to in section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands, see section 403 of Pub. L. 95-134, set out as a note under section 1681 of this title.

SUBCHAPTER III—LEGISLATIVE BRANCH

§ 1574. Legislative powers and activities

[*See main edition for text of (a) to (e)*]

(f) Customs duty; duty-free importation; effect on other customs laws

(1) The Legislature of the Virgin Islands may impose on the importation of any article into the Virgin Islands for consumption therein a customs duty. The rate of any customs duty imposed on any article under this subsection may not exceed—

(A) if an ad valorem rate, 6 per centum ad valorem; or

(B) if a specific rate or a combination ad valorem and specific rate, the equivalent or 6 per centum ad valorem.

(2) Nothing in this subsection shall prohibit the Legislature of the Virgin Islands from permitting the duty-free importation of any article.

(3) Nothing in this subsection shall be construed as empowering the Legislature of the Virgin Islands to repeal or amend any provision in law in effect on the day before October 15, 1977, which pertains to the customs valuation or customs classification of articles imported into the Virgin Islands.

(As amended Oct. 15, 1977, Pub. L. 95-134, title III, § 301(c), 91 Stat. 1163.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-134 added subsec. (f).

§ 1575. Legislative procedure

[*See main edition for text of (a) to (c)*]

(d) Approval and disapproval of bills

Every bill passed by the legislature shall, before it becomes a law, be presented to the Governor. If the Governor approves the bill, he shall sign it. If the Governor disapproves the bill, he shall, except as hereinafter provided, return it, with his objections, to the legislature within ten days (Sundays excepted) after it shall have been presented to him. If the Governor does not return the bill within such period, it shall be a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall be a

law if signed by the Governor within thirty days after it shall have been presented to him; otherwise it shall not be a law. When a bill is returned by the Governor to the legislature with his objections, the legislature shall enter his objections at large on its journal and, upon motion of a member of the legislature, proceed to reconsider the bill. If, after such reconsideration, two-thirds of all the members of the legislature pass the bill, it shall be a law. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects, and the items, or parts or portions thereof, so objected to shall not take effect, unless the legislature, after reconsideration upon motion of a member thereof, passes such items, parts, or portions so objected to by a vote of two-thirds of all the members of the legislature.

[*See main edition for text of* (*e*) *to* (*g*)]

(As amended Oct. 15, 1977, Pub. L. 95-134, title III, § 301(b), 91 Stat. 1163.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-134 inserted ", unless the legislature, after reconsideration upon motion of a member thereof, passes such items, parts, or portions so objected to by a vote of two-thirds of all the members of the legislature" following "shall not take effect".

SUBCHAPTER IV—EXECUTIVE BRANCH

§ 1599. Government comptroller

(a) Appointment; status; compensation; transfer or removal procedure

The Secretary of the Interior shall appoint in the Department of the Interior a government comptroller for the Virgin Islands who shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of the Virgin Islands. Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior. Sixty days prior to the effective date of transfer or removal of the government comptroller, the Secretary shall communicate to the President of the Senate and the Speaker of the House of Representatives his intention to so transfer or remove the government comptroller and his reasons therefor.

[*See main edition for text of* (*b*) *to* (*k*)]

(As amended Oct. 15, 1977, Pub. L. 95-134, title III, § 301(a), 91 Stat. 1162.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-134 substituted provisions authorizing the salary and expenses of the Comptroller's office to be paid from funds appropriated to the Department of Interior, effective Oct. 1, 1977, for provisions authorizing the salary and expenses of the Comptroller's office to be paid by the United States from funds derived by transfer from the Internal Revenue collections appropriated for the Virgin Islands.

CHAPTER 13—EASTERN SAMOA

§ 1665. Purchases by government of Samoa

REPEATED

Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.

CHAPTER 14—TRUST TERRITORY OF THE PACIFIC ISLANDS

Sec.
1694. District Court for the Northern Mariana Islands [New].
(a) Establishment; judicial circuit; terms of court.
(b) Appointment, term, compensation, etc., of District Court judge, United States attorney, and United States marshal.
(c) Applicability of Federal rules and statutory requirements.
1694a. Jurisdiction of District Court equivalent to United States district court; original jurisdiction; procedural requirements [New].
1694b. Jurisdiction of District Court in appellate matters; procedural requirements [New].
1694c. Relationship between courts established by United States Constitution or laws and courts of the Northern Mariana Islands; applicability of statutory provisions [New].
1694d. Effective date [New].
1694e. Authorization of appropriations [New].

§ 1681. Continuance of civil government for the Trust Territory of the Pacific Islands; assistance programs; maximum fiscal year costs; reimbursements

GUAM AND VIRGIN ISLANDS; APPLICABILITY OF LAWS REFERRED TO IN SECTION 502(a)(1) OF COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

Pub. L. 95-134, title IV, § 403, Oct. 15, 1977, 91 Stat. 1163, as amended by Pub. L. 95-135, § 1, Oct. 15, 1977, 91 Stat. 1166, provided that: "Effective on the date when section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America [set out in a note under this section in the 1976 edition of the Code], approved by joint resolution approved on March 24, 1976 (90 Stat. 263) goes into force those laws which are referred to in section 502(a)(1) of said Covenant, except for any laws administered by the Social Security Administration, except for medicaid which is now administered by the Health Care Financing Administration, and except the Micronesian Claims Act of 1971 (85 Stat. 96) [former section 2018 et seq. of the Appendix to Title 50, War and National Defense] shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands."

Section 2 of Pub. L. 95-135, Oct. 15, 1977, 91 Stat. 1166, provided that: "This amendatory joint resolution [amending this note] shall be effective as of the approval of said Act entitled 'To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes' (enrolled bill H.R. 6550, Ninety-fifth Con-

gress, first session) [Pub. L. 95-134, approved Oct. 15, 1977]."

AUTHORIZATION OF APPROPRIATIONS

Section 2 of Act June 30, 1954, as amended July 19, 1962, Pub. L. 87-541, 78 Stat. 171; May 10, 1967, Pub. L. 90-16, § 1, 81 Stat. 15; Oct. 21, 1968, Pub. L. 90-617, § 1, 82 Stat. 1213; Dec. 24, 1970, Pub. L. 91-578, 84 Stat. 1559; Sept. 21, 1973, Pub. L. 93-111, § 1, 87 Stat. 354; May 28, 1975, Pub. L. 94-27, § 1, 89 Stat. 95; Apr. 1, 1976, Pub. L. 94-255, § 1, 90 Stat. 299; Oct. 15, 1977, Pub. L. 95-134, title I, § 101, 91 Stat. 1159, provided that: "There are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1967, for fiscal year 1975, $75,000,000 for fiscal year 1976, $80,000,000; for the period beginning July 1, 1976, and ending September 30, 1976, $15,100,000; for fiscal year 1977, $80,000,000; and such amounts as were authorized but not appropriated for fiscal years 1975, 1976, and 1977; for fiscal year 1978, $90,000,000; for fiscal year 1979, $122,700,000; for fiscal year 1980, $112,000,000; and up to but not to exceed $8,000,000 for the construction of such buildings as are required for a four-year college to serve the Micronesian community (no appropriations for the construction of such buildings shall, however, be made (A) until, but not later than one year after the date of the enactment of this Act [Apr. 1, 1976], the President causes a study to be made by an appropriate authority to determine the educational need and the most suitable educational concept for such a college and transmits such study, together with his recommendations, to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the United States within said one year period and (B) until 90 calendar days after the receipt of such study and recommendations which shall be deemed approved unless specifically disapproved by resolution of either such committee), and $1,800,000 for a human development project in the Marshall Islands plus such sums as are necessary, for each of such fiscal years, or periods, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies, to remain available until expended, to carry out the provisions of this Act [this section] and to provide for a program of necessary capital improvements and public works related to health, education, utilities, highways, transportation facilities, communications, and public buildings: *Provided*, That except for funds appropriated for the activities of the Peace Corps no funds appropriated by any Act shall be used for administration of the Trust Territory of the Pacific Islands except as may be specifically authorized by law."

PROC. NO. 4534. CONSTITUTION OF NORTHERN MARIANA ISLANDS

Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593, provided:

On February 15, 1975, the Marianas Political Status Commission, the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States signed a Covenant, the purpose of which is to provide for the eventual establishment of a Commonwealth of the Northern Mariana Islands in political union with the United States of America. This Covenant was subsequently approved by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands voting in a plebiscite. The Covenant was approved by the Congress of the United States by joint resolution approved March 24, 1976 (Public Law 94-241; 90 Stat. 263) [set out as a note under this section in the 1976 edition of the Code].

In accordance with the provisions of Article II of the Covenant, the people of the Northern Mariana Islands have formulated and approved a Constitution which was submitted to me on behalf of the Government of the United States on April 21, 1977, for approval on the basis of its consistency with the Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. Pursuant to the provisions of Section 202 of the Covenant, the Constitution of the Northern Mariana Islands will be deemed to have been approved by the Government of the United States six months after the date of submission to the President unless sooner approved or disapproved.

The six-month period of Section 202 of the Covenant having expired on October 22, 1977, I am pleased to announce that the Constitution of the Northern Mariana Islands is hereby deemed approved.

I am satisfied that the Constitution of the Northern Mariana Islands complies with the requirements of Article II of the Covenant. I have also received advice from the Senate Committee on Energy and Natural Resources and the Subcommittee on National Parks and Insular Affairs of the House Committee on Interior and Insular Affairs that the Constitution complies with those requirements.

Sections 1003(b) and 1004(b) of the Covenant provide that the Constitution of the Northern Mariana Islands and the provisions specified in Section 1003(b) of the Covenant shall become effective on a date proclaimed by the President which will be not more than 180 days after the Covenant and the Constitution of the Northern Mariana Islands have both been approved.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim as follows:

SECTION 1. The Constitution of the Northern Mariana Islands shall come into full force and effect at eleven o'clock on the morning of January 9, 1978, Northern Mariana Islands local time.

SEC. 2. Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 of the Covenant shall come into full force and effect on the date and at the time specified in Section 1 of this Proclamation.

SEC. 3. The authority of the President under Section 1004 of the Covenant to suspend the application of any provision of law to or in the Northern Mariana Islands until the termination of the Trusteeship Agreement is hereby reserved.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

§ 1681b. Government comptroller of Guam; additional duties

(a) General provision; general supervision of Secretary of the Interior; other than executive department status; apportionment of salary and expenses between Guam and Trust Territory

The government comptroller for Guam appointed pursuant to the provisions of section 9-A of the Organic Act of Guam [48 U.S.C. 1422d] shall, in addition to the duties imposed on him by such Act [48 U.S.C. 1421 et seq.], carry out, on and after September 21, 1973, the duties set forth in this section with respect to the government of the Trust Territory of the Pacific Islands. In carrying out such duties, the comptroller shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of the Trust Territory of the Pacific Islands.

[*See main edition for text of* (b) *to* (j)]

(As amended Oct. 15, 1977, Pub. L. 95-134, title II, § 203(b), 91 Stat. 1162.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-134 struck out provisions relating to the apportionment of salary and expenses of the comptroller's office between Guam and and the Trust Territory of the Pacific Islands from funds available to Guam and the trust territory.

§ 1682. Purchases by government of Trust Territory of the Pacific Islands and by government of Northern Mariana Islands

The government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are authorized to make purchases through the General Services Administration.

(Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.)

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1977. Similar provisions were contained in the following prior appropriation act:

Pub. L. 94-373, title I, § 100, July 31, 1976, 90 Stat. 1053.

§ 1683. Auditing of transactions of Trust Territory of the Pacific Islands and of government of Northern Mariana Islands

All financial transactions of the Trust Territory and the government of the Northern Mariana Islands, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory and the government of the Northern Mariana Islands, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921, as amended [31 U.S.C. 1 et seq.], and the Accounting and Auditing Act of 1950 [31 U.S.C. 65 et seq.].

(Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.)

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1978. Similar provisions were contained in the following prior appropriation act:

Pub. L. 94-373, title I, § 100, July 31, 1976, 90 Stat. 1053.

§ 1687. Expenditure of appropriations for Trust Territory of the Pacific Islands and for government of Northern Mariana Islands to purchase, charter, maintain, and operate surface vessels

Appropriations available for the administration of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary.

(Pub. L. 95-74, title I, § 100, July 26, 1977, 91 Stat. 295.)

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1978. Similar provisions were contained in the following prior appropriation act:

Pub. L. 94-373, title I, § 100, July 31, 1976, 90 Stat. 1053.

§ 1694. District Court for the Northern Mariana Islands

(a) Establishment; judicial circuit; terms of court

There is established for and within the Northern Mariana Islands a court of record to be known as the District Court for the Northern Mariana Islands. The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

(b) Appointment, term, compensation, etc., of District Court judge, United States attorney, and United States marshal

(1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

(2) The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the ninth circuit, including a judge of the District Court of Guam who is appointed by the President, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District Court for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(3) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, shall apply.

(4) If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States attorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent ap-

pointment, be for the unexpired term of such judge or officer.

(c) Applicability of Federal rules and statutory requirements

The provisions of chapters 43 and 49 of title 28, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28 shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in articles IV and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263). The terms "attorney for the government" and "United States attorney" as used in the Federal Rules of Criminal Procedure (rule 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the attorney general of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

(Pub. L. 95-157, § 1, Nov. 8, 1977, 91 Stat. 1265.)

REFERENCES IN TEXT

The Act of March 24, 1976 (90 Stat. 263), referred to in subsec. (c), is Pub. L. 94-241, Mar. 24, 1976, 90 Stat. 263, which incorporates therein the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and is set out as a note under section 1681 of this title.

The Federal Rules of Criminal Procedure, referred to in subsec. (c), are classified to Title 18 App., Crimes and Criminal Procedure.

EFFECTIVE DATE

For effective date of this section, see section 1694d of this title and Effective Date of Constitution note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1694b, 1694c, 1694d, 1694e of this title.

§ 1694a. Jurisdiction of District Court equivalent to United States district court; original jurisdiction; procedural requirements

(a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties, or laws of the United States, it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The district court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

(Pub. L. 95-157, § 2, Nov. 8, 1977, 91 Stat. 1266.)

EFFECTIVE DATE

For effective date of this section, see section 1694d of this title and Effective Date of Constitution note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1694c, 1694d, 1694e of this title.

§ 1694b. Jurisdiction of District Court in appellate matters; procedural requirements

The district court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 1694(b)(2) of this title: *Provided, however,* That only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

(Pub. L. 95-157, § 3, Nov. 8, 1977, 91 Stat. 1266.)

CODIFICATION

Section 1694(b)(2) of this title, referred to in text, read in the original "subsection 1(b)(2)" which has been translated as section 1694(b)(2) of this title to reflect the probable intent of Congress in view of the absence of such subsection in this section.

EFFECTIVE DATE

For effective date of this section, see section 1694d of this title and Effective Date of Constitution note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in 1694c, 1694d, 1694e of this title.

§ 1694c. Relationship between courts established by United States Constitution or laws and courts of the Northern Mariana Islands; applicability of statutory provisions

(a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings,

except as otherwise provided in article IV of the covenant: *Provided*, That for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States court of appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties, or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to section 1694b of this title.

(b) Those portions of title 28 which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in article IV of the covenant. The district court established by sections 1694 to 1694e of this title shall be a district court as that term is used in section 3006A of title 18.

(Pub. L. 95-157, § 4, Nov. 8, 1977, 91 Stat. 1266.)

REFERENCES IN TEXT

The covenant, referred to in text, is incorporated in Pub. L. 94-241, Mar. 24, 1976, 90 Stat. 263, which is set out as a note under section 1681 of this title.

EFFECTIVE DATE

For effective date of this section, see section 1694d of this title and Effective Date of Constitution note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1694d, 1694e of this title.

§ 1694d. Effective date

Sections 1694 to 1694e of this title shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

(Pub. L. 95-157, § 5, Nov. 8, 1977, 91 Stat. 1267.)

EFFECTIVE DATE OF CONSTITUTION

For provisions of proclamation of President relating to effective date for Constitution of Northern Mariana Islands, see Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593, set out as a note under section 1681 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1694c, 1694e of this title.

§ 1694e. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 1694 to 1694e of this title.

(Pub. L. 95-157, § 6, Nov. 8, 1977, 91 Stat. 1267.)

EFFECTIVE DATE

For effective date of this section, see section 1694d of this title and Effective Date of Constitution note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1694c, 1694d of this title.

TITLE 49—TRANSPORTATION

CHAPTER 1—INTERSTATE COMMERCE ACT, PART I; GENERAL PROVISIONS AND RAILROAD AND PIPE LINE CARRIERS

Interstate Commerce Act Referred to in Other Sections

The Interstate Commerce Act is referred to in sections 20, 41, 43, 53, 55, 920, 1382, 1483, 1653, 1655 of this title; title 7 sections 225, 2044; title 11 section 205; title 15 sections 19, 21, 26, 44, 1681s, 1691c; title 16 section 813; title 18 sections 831, 835; title 42 sections 4916, 4917, 7155; title 43 section 975; title 45 sections 22, 65, 151, 157, 744, 791, 793, 854; title 46 section 884; title 47 section 601; title 48 section 751.

§§ 1 to 5

Transfer of Functions

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§§ 5b to 9

Transfer of Functions

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§§ 11 to 16

Transfer of Functions

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§ 17. Commission procedure; delegation of duties; rehearings

Transfer of Functions

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§§ 19 to 20

Transfer of Functions

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§ 22. Restrictions; quotations of rates for United States Government

Transfer of Functions

The functions vested by law in the Interstate Commerce Commission and in the Chairman and members thereof relating to the transportation of oil by pipeline were transferred to the Secretary of Energy, with the exception of the function and authority of the Interstate Commerce Commission and of any officer or component of the Interstate Commerce Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline, in which case the function and authority were transferred to the Federal Energy Regulatory Commission within the Department of Energy by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare.

§ 26. Safety appliances, methods, and systems

[*See main edition for text of (a) to (f)*]

(g) Duties and powers of Secretary of Transportation

It shall be the duty of the Secretary of Transportation to see that the requirements of this section and the orders, rules, regulations, standards, and instructions made, prescribed, or approved hereunder are observed by carriers, and all powers granted prior to August 26, 1937, to the Commission are extended to the Secretary of Transportation in the execution of this section.

[*See main edition for text of (h)*]

CODIFICATION

Subsec. (g) is set out in this supplement to correct an error in the main edition.

CHAPTER 8—INTERSTATE COMMERCE ACT, PART II; MOTOR CARRIERS

§ 305a. Joint Board, transportation requests

REPEATED

Pub. L. 95-85, title II, § 201, Aug. 2, 1977, 91 Stat. 413.

SIMILAR PROVISIONS

Section was from the Department of Transportation and Related Agencies Appropriation Act, 1978. Similar provisions were contained in the following appropriation act:

Aug. 14, 1976, Pub. L. 94-387, title II, § 201, 90 Stat. 1182.

CHAPTER 20—FEDERAL AVIATION PROGRAM

SUBCHAPTER IV—AIR CARRIER ECONOMIC REGULATION

Sec.
1388. Certificate for all-cargo air service [New].
(a) Application.
(b) Issuance and revocation of certificate.
(c) Exemptions.
(d) Air carrier status.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1356a, 1653, 1701, 1714, 1742 of this title; title 7 section 136q; title 11 section 516; title 14 section 82; title 15 sections 45, 1607, 1681s, 1691c, 1692l; title 26 section 47; title 40 App. section 208; title 42 section 7572.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1301. Definitions

As used in this chapter, unless the context otherwise requires—

[*See main edition for text of (1) to (10)*]

(11) "All-cargo air service" means—

(A) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(B) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(12) "Appliances" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

(13) "Board" means the Civil Aeronautics Board.

(14) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(15) "Civil aircraft" means any aircraft other than a public aircraft.

(16) "Civil aircraft of the United States" means any aircraft registered as provided in this chapter.

(17) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(18) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment

of mortgage, or other instrument affecting title to, or interest in, property.

(19) "Federal airway" means a portion of the navigable airspace of the United States designated by the Secretary of Transportation as a Federal airway.

(20) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(21) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(22) "Interstate air transportation", "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and any place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(23) "intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

(24) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

(25) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(26) "Mail" means United States mail and foreign-transit mail.

(27) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this chapter, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(28) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(29) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this chapter.

(30) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(31) "Propeller" includes all parts, appurtenances, and accessories thereof.

(32) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this chapter to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(33) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(34) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use

in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(35) The term "special aircraft jurisdiction of the United States" includes—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States;

(c) any other aircraft within the United States;

(d) any other aircraft outside the United States—

(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.

(36) "Supplemental air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

(37) "Supplemental air transportation" means charter trips, including inclusive tour charter trips, in air transportation, other than the transportation of mail by aircraft, rendered pursuant to a certificate of public convenience and necessity issued pursuant to section 1371(d)(3) of this title to supplement the scheduled service authorized by certificates of public convenience and necessity issued pursuant to sections 1371(d)(1) and (2) of this title. Nothing in this paragraph shall permit a supplemental air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales.

(38) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

(39) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

(As amended Pub. L. 95-163, § 17(b), Nov. 9, 1977, 91 Stat. 1286.)

AMENDMENTS

1977—Par. (11). Pub. L. 95-163, § 17(b)(2), added par. (11). Former par. (11) was renumbered (12).

Pars. (12) to (39). Pub. L. 95-163, § 17(b)(1), renumbered former pars. (11) to (38) as (12) to (39), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1729, 1807 of this title; title 15 section 2052; title 18 sections 112, 878, 1116, 1201; title 26 sections 4492; title 42 section 4902, 7574.

§ 1302. Consideration of matters in public interest by Board

(a) General factors for consideration

In the exercise and performance of its powers and duties under this chapter, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(1) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(4) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(5) The promotion of safety in air commerce; and

(6) The promotion, encouragement, and development of civil aeronautics.

(b) Factors for all-cargo air service

In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this chapter with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B)

the commerce of the United States, and (C) the national defense.

(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality, and price of such services.

(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing.

(As amended Pub. L. 95-163, § 16(b), Nov. 9, 1977, 91 Stat. 1284.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-163 redesignated existing undesignated provisions as subsec. (a) and existing cls. (a) to (f) thereof as cls. (1) to (6), and added subsec. (b).

SUBCHAPTER III—ORGANIZATION OF ADMINISTRATION; POWERS AND DUTIES OF ADMINISTRATOR

§ 1354. Other powers and duties of Secretary of Transportation

[*See main edition for text of* (a)]

(b) Report of proceedings and investigations; publication of reports, orders, decisions, rules and regulations; use as evidence

Except as may be otherwise provided in this chapter, the Secretary of Transportation shall make a report in writing on all proceedings and investigations under this chapter in which formal hearings have been held, and shall state in such report his conclusions together with his decision, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Secretary of Transportation shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by him under this chapter in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Secretary of Transportation shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Secretary therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

[*See main edition for text of* (c) *to* (e)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct error in the main edition.

SUBCHAPTER IV—AIR CARRIER ECONOMIC REGULATION

§ 1371. Certificate of public convenience and necessity

[*See main edition for text of* (a) *to* (c)]

(d) Issuance

[*See main edition for text of* (1) *to* (3)]

(4)(A) Notwithstanding any other provision of this chapter, any citizen of the United States who undertakes, within the State of California or the State of Florida, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage (i) within the State of California, granted by the Public Utilities Commission of such State, or (ii) within the State of Florida, granted by the Public Service Commission of such State, is authorized—

(I) to establish services for persons and property which includes transportation by such citizen over its routes in California or Florida and transportation by an air carrier or foreign air carrier in air transportation; and

(II) subject to the requirements of section 1382 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

(B) The joint fares or rates established under clause (II) of subparagraph (A) of this paragraph shall be the lowest of—

(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission, or the sum of the applicable fare or rate for service in Florida approved by such Public Service Commission, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

(ii) a joint fare or rate established and filed in accordance with section 1373 of this title; or

(iii) a joint fare or rate established by the Board in accordance with section 1482 of this chapter.

[*See main edition for text of* (e) *to* (o)]

(As amended Pub. L. 95-163, § 9, Nov. 9, 1977, 91 Stat. 1281.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), (3), and (4), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1977—Subsec. (d)(4). Pub. L. 95-163 added subsec. (d)(4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1356, 1356a, 1358, 1375, 1386, 1388, 1487, 1517, 1711, 1718, 1729 of this title; title 39 section 5402.

§ 1373. Tariffs of air carriers

[*See main edition for text of* (*a*)]

(b) Observance of tariffs; granting, soliciting, or accepting rebates

(1) No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs except those specified therein. Nothing in this chapter shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees (including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation on a space-available basis to any minister of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term "handicapped person" means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board. For purposes of this subsection, the term "retired" means no longer gainfully employed as defined by the Board.

[*See main edition for text of* (*2*)]

(c) Notice of change in tariff

No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff—

(1) of any air carrier, or foreign air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section; and

(2)(A) of any air carrier, or foreign air carrier, if such rate, fare, or charge is for the carriage of persons in air transportation, or (B) of any air carrier, or foreign air carrier, not directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after forty-five days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section.

Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Board may in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

[*See main edition for text of* (*d*)]

(As amended Pub. L. 95-163, §§ 8(a), 10(a), Nov. 9, 1977, 91 Stat. 1281.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-163, § 8(a), expanded the enumeration of persons to whom air carriers may grant reduced-rate transportation on a space-available basis to include persons who are sixty years of age or older and retired, persons who are sixty-five years of age or older even though they may not be retired, handicapped persons, and attendants required by handicapped persons.

Subsec. (c). Pub. L. 95-163, § 10(a), designated a portion of existing provisions as par. (1), substituted "air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice" for "air carrier, except after thirty days' notice" in par. (1) as so designated, and added par. (2).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 11(a) of Pub. L. 95-163 provided that: "The amendment made by subsection (a) of section 10 of this Act [amending subsec. (c) of this section] shall apply to any tariff change filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 [subsec. (c) of this section] after the thirtieth day after the date of enactment of this section [Nov. 9, 1977]."

STUDY ON REDUCED RATE TRANSPORTATION FOR PERSONS TWENTY-ONE YEARS OLD OR YOUNGER; REPORT WITHIN 6-MONTHS AFTER NOVEMBER 9, 1977

Section 8(b) of Pub. L. 95-163 provided that: "Within six months after the date of enactment of this section [Nov. 9, 1977], the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1371 of this title.

§ 1376. Rates for transportation of mail

(a) Authorization to fix rates

The Board is empowered and directed, upon its own initiative or upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same. Nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an "air taxi operator" by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order.

(b) Rate making elements

In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the United States Postal Service, and the national defense. In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense. In determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III-A as set forth in Board order E-23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of title 26.

[*See main edition for text of* (c) *to* (h)]

(As amended Pub. L. 95-163, §§ 12(a), 13, Nov. 9, 1977, 91 Stat. 1282.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-163, § 13, provided that nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an "air taxi operator" by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points, but that, in no event could such payments differ from the amount previously provided by such Board order.

Subsec. (b). Pub. L. 95-163, § 12(a), provided that in determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III-A as set forth in Board order E-23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of Title 26.

REDETERMINATION OF COMPENSATION FOR LOCAL SERVICE AIR CARRIERS FOR 1966

Section 12(b) of Pub. L. 95-163 provided that: "In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 [subsec. (b) of this section] took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, [section 172 of Title 26, Internal Revenue Code], the Board shall redetermine the compensation to be paid to such air carrier in accordance with section 406(b) as amended by this section, and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination."

§ 1382. Pooling and other agreements; filing; approval by Board

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1384 of this title.

§ 1386. Classification and exemption of carriers

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1375, 1388 of this title; title 39 section 5402.

§ 1388. Certificate for all-cargo air service

(a) Application

(1) Any citizen of the United States who has a valid certificate issued under section 1371(d)(1) of this title and who provided scheduled all-cargo air service at any time during the period from January 1, 1977, through November 9, 1977, may, during the forty-five-day period which begins on November 9, 1977, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(2) Any citizen of the United States who (A) operates pursuant to an exemption granted by the Board under section 1386 of this title, and (B) provided scheduled all-cargo air service continuously (other than for interruptions caused by labor disputes) during the 12-month period ending on November 9, 1977, or whose predecessor in interest provided such service during such period, may, during the forty-five-day period which begins on November 9, 1977, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(3) After the three hundred and sixty-fifth day which begins after November 9, 1977, any citizen of the United States may submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(b) Issuance and revocation of certificate

(1)(A) Not later than sixty days after any application is submitted pursuant to paragraph (1) or (2) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged, by the holder of such certificate.

(3) Notwithstanding any other provision of this section, no certificate issued by the Board under this section shall authorize all-cargo air service between any pair of points both of which are within the State of Alaska or the State of Hawaii.

(4) If any all-cargo air service authorized by a certificate issued under this subsection is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and opportunity for a hearing, direct that such certificate shall, thereafter, cease to be effective to the extent of such service.

(c) Exemptions

Any applicant who is issued a certificate under this section shall, with respect to any all-cargo air service provided in accordance with such certificate, be exempt from the requirements of section 1371(a) of this title, and any other section of this chapter which the Board by rule determines appropriate, and any rule, regulation, or procedure issued pursuant to any such section.

(d) Air carrier status

Any applicant who is issued a certificate under this section shall be an air carrier for the purposes of this chapter, except to the extent such carrier is exempt from any requirement of this chapter pursuant to this section.

(Pub. L. 85-726, title IV, § 418, as added Pub. L. 95-163, § 17(a), Nov. 9, 1977, 91 Stat. 1284.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

SUBCHAPTER V—NATIONALITY AND OWNERSHIP OF AIRCRAFT

§ 1401. Registration of aircraft nationality

[*See main edition for text of* (a)]

(b) Eligibility for registration

An aircraft shall be eligible for registration if, but only if—

(1)(A) it is—

(i) owned by a citizen of the United States (other than a corporation) or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) owned by a corporation lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

(B) it is not registered under the laws of any foreign country; or

(2) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term "based and primarily used in the United States".

[*See main edition for text of* (c) *to* (f)]

(As amended Pub. L. 95-163, § 14, Nov. 9, 1977, 91 Stat. 1283.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-163 added provisions drawing a distinction between ownership by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States and ownership by a corporation lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States and added provisions directing the Secretary of Transportation to define, by regulation, the term "based and primarily used in the United States".

SUBCHAPTER VI—SAFETY REGULATION OF CIVIL AERONAUTICS

§ 1421. Powers and duties of Secretary of Transportation

[*See main edition for text of* (a) *to* (c)]

(d) Installation of emergency locator transmitters; aircraft subject to coverage

(1) Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator transmitters shall be installed—

(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following January 2, 1974; and

(B) on any fixed-wing, powered civil aircraft used in air commerce after three years and six months following such date.

[*See main edition for text of* (2)]

(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.

(e) Aviation fuel standards; establishment, implementation and enforcement

The Secretary of Transportation shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 7571 of title 42) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards.

(As amended Pub. L. 95-163, § 15(a), (b)(1), Nov. 9, 1977, 91 Stat. 1283.)

REFERENCES TO SUBSECTION (d)

Section 15(b)(2) of Pub. L. 95-163 provided that: "Any reference to such relettered subsection (e) [resulting from the redesignation by Pub. L. 95-163 of former subsec. (d) relating to aviation fuel standards as subsec. (e)] shall be relettered accordingly."

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-163, § 15(a)(1), added reference to the exception provided in par. (3) of subsec. (d).

Subsec. (d)(3). Pub. L. 95-163, § 15(a)(2), added subsec. (d)(3).

Subsec. (e). Pub. L. 95-163, § 15(b)(1), redesignated as subsec. (e) provisions relating to the establishment, implementation, and enforcement of aviation fuel standards thereby correcting a situation in which the provisions relating to aviation fuel standards and the provisions relating to emergency locator beacons had both been designated subsec. (d).

§ 1430. Violations; exemption of foreign aircraft and airmen

(a) It shall be unlawful—

[*See main edition for text of* (1) *to* (8)]

(9) For any person to manufacture, deliver, sell, or offer for sale, any aviation fuel or fuel additive in violation of any regulation prescribed under section 1421(e) of this title.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-163, § 15(b)(2), Nov. 9, 1977, 91 Stat. 1283.)

AMENDMENTS

1977—Subsec. (a)(9). Pub. L. 95-163 substituted "section 1421(e)" for "section 1421(d)".

SUBCHAPTER X—PROCEDURE

§ 1482. Complaints to and investigations by Secretary of Transportation and Board

[*See main edition for text of (a) to (c)*]

(d) Power to prescribe rates and practices of air carriers

(1) Except as provided in paragraph (2) of this subsection, whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective.

(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.

[*See main edition for text of (e) and (f)*]

(g) Suspension of rates

Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby at least fifteen days before the day on which such tariff would otherwise go into effect, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period, except that this subsection shall not apply to any initial tariff filed by any air carrier. The Board shall not suspend any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.

(h) Power to prescribe divisions of rates

Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint rates, fares, or charges for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as the Board finds to be just, reasonable, and equitable.

(i) Power to establish through air transportation service

The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges (or the maxima or minima, or the maxima and minima thereof) for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, and the terms and conditions under which such through service shall be operated: *Provided*, That as to joint rates, fares, and charges for overseas air transportation the Board shall determine and prescribe only just and reasonable maximum or minimum or maximum and minimum joint rates, fares, or charges.

[*See main edition for text of (j)*]

(k) Definitions

(1) For purposes of this section, the term "interstate air transportation of property" means—

(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia (other than the carriage by aircraft of property by a common carrier between any pair of points both of which are within the State of Alaska or Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska or Hawaii and the other of which is not within the same State); or between places in the same State of the United States (other than the State of Alaska or Hawaii) through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(2) For purposes of this section, the term "overseas air transportation" means—

(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States, and a place in any other territory or possession of the United States;

(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(3) For purposes of this section, the term "air transportation of property within the State of Alaska" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Alaska if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Alaska through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(4) For purposes of this section, the term "air transportation of property within the State of Hawaii" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Hawaii and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Hawaii through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(As amended Pub. L. 95-163, §§ 10(b), 18(a)-(e)(1), Nov. 9, 1977, 91 Stat. 1282, 1286, 1287.)

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-163, § 18(a), designated existing provisions as pars. (1) and (2), added provisions in par. (1) as so designated which limited par. (1) to interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, and overseas air transportation, and added par. (3).

Subsec. (g). Pub. L. 95-163, §§ 10(b), 18(b), substituted "delivering to the air carrier affected thereby at least fifteen days before the day on which such tariff would otherwise go into effect, a statement in writing" for "delivering to the air carrier affected thereby, a statement in writing" and added provisions prohibiting the Board from suspending any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.

Subsec. (h). Pub. L. 95-163, § 18(c), substituted "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation" for "air transportation".

Subsec. (i). Pub. L. 95-163, § 18(d), substituted "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation" for "interstate or overseas air transportation".

Subsec. (k). Pub. L. 95-113, § 18(e)(1), added subsec. (k).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 11(b) of Pub. L. 95-163 provided that: "The amendment made by subsection (b) of section 10 of this Act [amending the first sentence of subsec. (g) of this section] shall apply to any tariff change filed by any air carrier for interstate or overseas air transportation in accordance with section 403(c) of the Federal Aviation Act of 1958 [section 1373(c) of this title] after the thirtieth day after the date of enactment of this section [Nov. 9, 1977]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1461, 1471 of this title.

SUBCHAPTER XIII—AVIATION INSURANCE

§ 1531. Definitions

As used in this subchapter—

(1) the term "American aircraft" means any civil aircraft of the United States and any aircraft owned or chartered by, or made available to, the United States or any department or agency thereof, the government of any State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia;

(2) the terms "insurance company" and "insurance carrier" include any mutual or stock insurance company, reciprocal insurance association, and any group or association authorized to do an aviation insurance business in any State of the United States; and

(3) the term "Secretary" means the Secretary of Transportation.

(As amended Pub. L. 95-163, § 1(a), Nov. 9, 1977, 91 Stat. 1278.)

AMENDMENTS

1977—Pub. L. 95-163 struck out provisions defining "war risks" as all or any part of those risks which are described in "free of capture and seizure" clauses or analogous clauses and struck out provisions which had related the definition of "American aircraft" to the term "civil aircraft of the United States" as defined in section 1301(15) of this title and had limited the definition of "insurance company" and "insurance carrier" only to a definition of those terms as they were used in sections 1535(a) and (b) and 1537(d) of this title.

§ 1532. Authority to insure

(a) Authority of Secretary of Transportation

(1) The Secretary, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided by this subchapter, whenever it is determined by the Secretary that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to do an insurance business in a State of the United States.

(2) The President shall approve insurance or reinsurance under paragraph (1) of this subsection only if he has first made a determination that the continuation of the American aircraft, or the foreign-flag aircraft, operation to be insured or reinsured is necessary to carry out the foreign policy of the United States.

(3) Insurance shall be issued under this subchapter only to cover any risk from the operation of an aircraft while such aircraft is (A) engaged in foreign air commerce, or (B) being operated between two or more points all of which are outside of the United States.

(b) Basis of insurance

The premium charged for any insurance or reinsurance issued under any provision of this subchapter shall be based, insofar as practicable, upon consideration of the risk involved.

(c) Period of coverage

No insurance or reinsurance may be provided by the Secretary under this subchapter for an initial period of more than sixty days. Such insurance or reinsurance may be extended for additional periods each of which shall not exceed sixty days, but only if, before each such extension, the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance.

(As amended Pub. L. 95-163, § 2, Nov. 9, 1977, 91 Stat. 1278.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-163 designated existing provisions as par. (1), substituted "any risk from the operation of an aircraft" for "war risks" and "such insurance cannot be obtained" for "such insurance adequate for the needs of the air commerce of the United States cannot be obtained" in par. (1) as so designated, struck out proviso that no insurance shall be issued under this subchapter to cover war risks on persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia, and added pars. (2) and (3).

Subsec. (b). Pub. L. 95-163 substituted "The premium charged for any insurance or reinsurance issued

under any provision of this subchapter" for "Any insurance or reinsurance issued under any of the provisions of this subchapter".

Subsec. (c). Pub. L. 95-163 added subsec. (c).

§ 1533. Insurable persons, property, or interests

The Secretary may provide the insurance and reinsurance, authorized by section 1532 of this title with respect to the following persons, property, or interest:

(1) American aircraft and those foreign-flag aircraft engaged in aircraft operations deemed by the President to be necessary to carry out the foreign policy of the United States.

(2) Cargoes transported or to be transported on any aircraft referred to in paragraph (1), including shipments by express or registered mail; air cargoes owned by citizens or residents of the United States, its territories, or possessions; air cargoes imported to, or exported from the United States, its territories, or possessions and air cargoes sold or purchased by citizens or residents of the United States, its territories, or possessions, under contracts of sale or purchase by the terms of which the risk of loss or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its territories, or possessions; air cargoes transported between any point in the United States and any point in a territory or possession of the United States, between any point in any such territory or possession and any point in any other such territory or possession, or between any point in any such territory or possession and any other point in the same territory or possession.

(3) The personal effects and baggage of the captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and of other persons employed or transported on such aircraft.

(4) Captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and other persons employed or transported thereon against loss of life, injury, or detention.

(5) Statutory or contractual obligations or other liabilities of any aircraft referred to in paragraph (1) or of the owner or operator of such aircraft of the nature customarily covered by insurance.

(As amended Pub. L. 95-163, § 3, Nov. 9, 1977, 91 Stat. 1279.)

AMENDMENTS

1977—Pub. L. 95-163 recast the provisions covering American aircraft and those foreign-flag aircraft engaged in aircraft operations by substituting a requirement that the President make a determination that the aircraft operations are necessary to carry out the foreign policy of the United States in order that such aircraft be covered for a prior requirement under which the Secretary had been required to make a determination that the aircraft operations were in the interest of the national defense or the national economy of the United States when so engaged in order for the aircraft to be covered, and struck out a reference to war risks.

§ 1535. Reinsurance; premiums; allowances to insurance carriers

[*See main edition for text of* (a)]

(b) Reinsurance shall not be provided by the Secretary at premiums less than nor obtained by the Secretary at premiums more than the premiums established by the Secretary on the same or similar risks or the premiums charged by the insurance carrier for the insurance so reinsured, whichever is most advantageous to the Secretary, except that the Secreatry may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business.

(As amended Pub. L. 95-163, § 4(a), Nov. 9, 1977, 91 Stat. 1279.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-163 substituted "premiums" for "rates".

§ 1537. Administrative provisions

[*See main edition for text of* (a)]

(b) Forms and policies; premiums

The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and the premiums provided for in this subchapter, except that with respect to policies in effect at the time any such change is made, such change shall apply only with the consent of the insured.

[*See main edition for text of* (c) *to* (f)]

(As amended Pub. L. 95-163, § 5(a), Nov. 9, 1977, 91 Stat. 1280.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-163 substituted "the premiums provided for in this subchapter, except that" for "rates of premium provided for in this suchapter: Provided, That".

§ 1542. Expiration of authority to provide insurance

The authority of the Secretary to provide insurance and reinsurance under this subchapter shall expire at the termination of September 30, 1982.

(As amended Pub. L. 95-163, § 6, Nov. 9, 1977, 91 Stat. 1280.)

AMENDMENTS

1977—Pub. L. 95-163 substituted "September 30, 1982" for "May 7, 1977".

CHAPTER 21—URBAN MASS TRANSPORTATION

Sec.
1614. Reimbursement to States [New].
(a) Rail passenger service.
(b) Exclusion of intercity rail passenger service.
(c) Pro rata passenger-miles distribution.
(d) Use of funds for operating expenses or programs to correct deferred maintenance.
(e) Terms, conditions, etc.
(f) Authorization of appropriations.

Chapter Referred to in Other Sections

This chapter is referred to in title 23 sections 103, 142; title 42 section 7506.

§ 1604. Urban mass transit grant program

[*See main edition for text of* (a) *to* (h)]

(i) Certification by Governor or designated recipient to Secretary of compliance with procedures for determination of environmental, etc., impact of proposed projects; report

Upon submission for approval of a proposed project under this section, the Governor or the designated recipient of the urbanized area shall certify to the Secretary that he or it has conducted public hearings (or has afforded the opportunity for such hearings) and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such project, its impact on the environment, including requirements under the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Such certification shall be accompanied by (1) a report which indicates the consideration given to the economic, social, environmental, and other effects of the proposed project, including, for construction projects, the effects of its location or design, and the consideration given to the various alternatives which were raised during the hearing or which were otherwise considered, and (2) upon the Secretary's request, a copy of the transcript of the hearings.

[*See main edition for text of* (j) *to* (n)]

References in Text

The Clean Air Act, referred to in subsec. (i) is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

Codification

Subsec. (i) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

§ 1613. Emergency financial assistance

[*See main edition for text of* (a) *to* (c)]

(d) Federal share of costs of rail passenger service; duration

The Federal share of the costs of any rail passenger service required by subsections (c) and (e) of section 744 of title 45 shall be as follows:

(1) 100 percent of the costs eligible under subsections (a)(1) or (a)(2) of this section for the 180-day mandatory operation period required by section 744(e) of title 45;

(2) 100 percent for the 180-day period following the 180-day mandatory operation period;

(3) 90 percent for the 12-month period succeeding the period specified in subparagraph (2) of this subsection;

(4) 80 percent for the 180-day period succeeding the period specified in subparagraph (3) of this subsection; and

(5) 50 percent for the 24-month period succeeding the period specified in subparagraph (4) of this subsection.

[*See main edition for text of* (e)]

(f) Funding authority; authorization of appropriations for liquidation of obligations funding assistance programs

To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $185,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977, $125,000,000 by September 30, 1978, $155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980.

(As amended Pub. L. 95-187, § 1, Nov. 16, 1977, 91 Stat. 1385.)

Amendments

1977—Subsec. (d). Pub. L. 95-187, § 1(1) to (5), substituted in par. (4) "80 percent" for "50 percent", added par. (5), and struck out closing provisions relating to assurances to the Secretary that the service for which assistance is sought will be continued after the termination of assistance authorized by this section where such assistance is provided beyond the time specified in par. (3).

Subsec. (f). Pub. L. 95-187, § 1(6), substituted "$185,000,000" for "$125,000,000", added provisions authorizing to be appropriated for liquidation of obligations incurred under this section not to exceed $155,000,000 by Sept. 30, 1979, and $185,000,000 by Sept. 30, 1980, and struck out provision that the authorized sums remain available until expended.

§ 1614. Reimbursement to States

(a) Rail passenger service

The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.

(b) Exclusion of intercity rail passenger service

Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 563(b)(2) of title 45; and (2) rail passenger service required by section 744(e)(4) of title 45.

(c) Pro rata passenger-miles distribution

The Secretary shall distribute financial assistance authorized by subsection (a) of this section pro rata on the basis of the passenger-miles attributable to each eligible rail passenger service, except that (1) for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per centum of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the Federal fiscal year for which the distribution is made, and (2) no Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of such service.

(d) Use of funds for operating expenses or programs to correct deferred maintenance

Financial assistance authorized by subsection (a) of this section may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of section 744(e)(5)(C) of title 45, but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

(e) Terms, conditions, etc.

Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate.

(f) Authorization of appropriations

To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed $20,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $20,000,000 by September 30, 1979, such sum to remain available until expended.

(Pub. L. 88-365, § 18, as added Pub. L. 95-187, § 2, Nov. 16, 1977, 91 Stat. 1385.)

CHAPTER 23—DEPARTMENT OF TRANSPORTATION

Chapter Referred to in Other Sections

This chapter is referred to in section 1431 of this title; title 7 section 136q; title 42 sections 4916, 4917, 7572.

CHAPTER 24—NATURAL GAS PIPELINE SAFETY

§ 1671. Definitions

Transfer of Functions

The Federal Power Commission was terminated and its functions were transferred to either the Secretary of Energy or, with regard to certain specific and enumerated functions relating to hydroelectric licenses and permits, electricity rates and charges, natural gas rates and charges, certificates of public convenience and necessity for natural gas, natural gas curtailments, and mergers and securities acquisitions under the Federal Power Act, section 791a et seq. of Title 16, Conservation, and the Natural Gas Act, section 717 et seq. of Title 15, Commerce and Trade, to the Federal Energy Regulatory Commission by sections 7151(b), 7172(a)(1), and 7293 of Title 42, The Public Health and Welfare.

§ 1672. Federal safety standards

Transfer of Functions

The Federal Power Commission was terminated and its functions were transferred to either the Secretary of Energy or, with regard to certain specific and enumerated functions relating to hydroelectric licenses and permits, electricity rates and charges, natural gas rates and charges, certificates of public convenience and necessity for natural gas, natural gas curtailments, and mergers and securities acquisitions under the Federal Power Act, section 791a et seq. of Title 16, Conservation, and the Natural Gas Act, section 717 et seq. of Title 15, Commerce and Trade, to the Federal Energy Regulatory Commission by sections 7151(b), 7172(a)(1), and 7293 of Title 42, The Public Health and Welfare.

§ 1676. Cooperation with Federal Power Commission and State commissions

Transfer of Functions

The Federal Power Commission was terminated and its functions were transferred to either the Secretary of Energy or, with regard to certain specific and enumerated functions relating to hydroelectric licenses and permits, electricity rates and charges, natural gas rates and charges, certificates of public convenience and necessity for natural gas, natural gas curtailments, and mergers and securities acquisitions under the Federal Power Act, section 791a et seq. of title 16, Conservation, and the Natural Gas Act, section 717 et seq. of title 15, Commerce and Trade, to the Federal Energy Regulatory Commission by sections 7151(b), 7172(a)(1), and 7293 of Title 42, The Public Health and Welfare.

§ 1682. Administration

Transfer of Functions

The Federal Power Commission was terminated and its functions were transferred to either the Secretary of Energy or, with regard to certain specific and enumerated functions relating to hydroelectric licenses and permits, electricity rates and charges, natural gas rates and charges, certificates of public convenience and necessity for natural gas, natural gas curtailments, and mergers and securities acquisitions under the Federal Power Act, section 791a et seq. of Title 16, Conservation, and the Natural Gas Act, section 717 et seq. of Title 15, Commerce and Trade, to the Federal Energy Regulatory Commission by sections 7151(b), 7172(a)(1), and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 25—AVIATION FACILITIES EXPANSION AND IMPROVEMENT

SUBCHAPTER II—AIRPORT AND AIRWAY DEVELOPMENT

§ 1712. National airport system plan

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 1716. Project applications for airport development

[*See main edition for text of (a) and (b)*]

(c) Approval

[*See main edition for text of (1) to (3)*]

(4) It is declared to be national policy that airport development projects authorized pursuant to this subchapter shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

[*See main edition for text of (d)*]

(e) Air and water quality

(1) The Secretary shall not approve any project application for a project involving airport location, a major runway extension, or runway location unless the Governor of the State in which such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from the Administrator. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

[*See main edition for text of (2); (f) to (h)*]

(Pub. L. 91-258, title I, § 16, May 21, 1970, 84 Stat. 226; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; 1970 Reorg. Plan No. 3, § 2(a)(1), (3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087; Pub. L. 93-44, § 4, June 18, 1973, 87 Stat. 89; Pub. L. 94-353, title I, § 8(a), (b), July 12, 1976, 90 Stat. 876.)

TRANSFER OF FUNCTIONS

Administrator of the Environmental Protection Agency was substituted in subsec. (c)(4) for reference to the Secretary of Health, Education, and Welfare on authority of 1970 Reorg. Plan No. 3, § 2(a)(3).

Administrator of the Environmental Protection Agency was substituted in subsec. (e)(1) for references to the Secretary of the Interior and the Secretary of Health, Education, and Welfare on authority of 1970 Reorg. Plan No. 3, § 2(a)(1), (3).

TITLE 50—WAR AND NATIONAL DEFENSE

Chap.		Sec.
35.	International Emergency Economic Powers [New]	1701

CHAPTER 4C—ATOMIC WEAPONS AND SPECIAL NUCLEAR MATERIALS INFORMATION REWARDS

§ 47b. Determination by Attorney General of entitlement and amount of reward; consultation; Presidential approval

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 5—ARSENALS, ARMORIES, ARMS, AND WAR MATERIAL GENERALLY

§ 100a. Scrap-processing facilities; acquisition, construction, or operation

REPEATED

Pub. L. 95-111, title VIII, § 812, Sept. 21, 1977, 91 Stat. 901.

SIMILAR PROVISIONS

Section is from the Department of Defense Appropriation Act, 1978. Similar provisions were contained in the following prior appropriation act:

Sept. 22, 1976, Pub. L. 94-419, title VII, § 712, 90 Stat. 1293.

CHAPTER 10—HELIUM GAS

§§ 167d, 167e

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions under those sections were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 15—NATIONAL SECURITY

§ 401. Congressional declaration of purpose

EX. ORD. NO. 11905. UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

Ex. Ord. No. 11905, Feb. 18, 1976, 41 F.R. 7703, as amended by Ex. Ord. No. 11985, May 13, 1977, 42 F.R. 25487; Ex. Ord. No. 11994, June 1, 1977, 42 F.R. 28869, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended [see Short Title note set out under this section in the 1976 edition of the Code], and as President of the United States of America, it is hereby ordered as follows:

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* * * * *

SEC. 2. *Definitions.* For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

* * * * *

(d) *National Foreign Intelligence Program* means the programs of the Central Intelligence Agency and the special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs, the Consolidated Cryptologic Program, and those elements of the General Defense Intelligence Program and other programs of the departments and agencies, not including tactical intelligence, designated by the NSC Policy Review Committee as part of the Program.

SEC. 3. *Control and Direction of National Intelligence Organizations.*

(a) *National Security Council.* (1) The National Security Council was established by the National Security Act of 1947 [see Short Title note set out above] to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

* * * * *

(4) The National Security Council Policy Review Committee and the National Security Council Special Coordination Committee assist the National Security Council in the performance of its functions. Membership on each committee includes, in addition to the National Security Council, such members as the President may direct. In addition to the performance of policy development and coordination responsibilities which may be assigned by the President, these committees are responsible for those duties specified by this Order.

(b) *NSC Policy Review Committee.* (1) Whenever the NSC Policy Review Committee, hereinafter referred to as the PRC, performs the functions assigned in this Order, the PRC shall be chaired by the Director of Central Intelligence, hereinafter referred to as the DCI, and include as members the Deputy Secretary of Defense, the Deputy Assistant to the President for National Security Affairs, and a senior representative of the Secretary of State.

(2) The PRC shall (i) control budget preparation and resource allocation for the National Foreign Intelligence Program.

(A) The PRC shall, prior to submission to the Office of Management and Budget, review, and amend as it deems appropriate, the budget for the National Foreign Intelligence Program.

(B) The PRC shall also adopt rules governing the reprogramming of funds within this budget. Such rules may require that reprogrammings of certain types or amounts be given prior approval by the PRC.

(ii) Establish policy priorities for the collection and production of national intelligence.

(iii) Establish policy for the management of the National Foreign Intelligence Program.

(iv) Provide guidance on the relationship between tactical and national intelligence; however, neither the DCI nor the PRC shall have responsibility for tactical intelligence.

(v) Provide continuing guidance to the Intelligence Community in order to ensure compliance with policy directions of the NSC.

(3) The PRC shall be supported in its functions under this Order by the Intelligence Community staff headed by the Deputy to the Director of Central Intelligence for the Intelligence Community.

(4) The PRC shall establish such subcommittees as it deems appropriate to ensure consultation with members of the Intelligence Community on policies and guidance issued by the PRC under this Order.

(5) Decisions of the PRC under this Order may be reviewed by the National Security Council upon appeal by the Director of Central Intelligence or any member of the National Security Council.

(c) *NSC Special Coordination Committee.* (1) Whenever the NSC Special Coordination Committee, hereinafter referred to as the SCC, meets to perform the functions assigned in this Order, the SCC shall be chaired by the Assistant to the President for National Security Affairs and include the Secretary of State, Secretary of Defense, Director of Central Intelligence and Chairman of the Joint Chiefs of Staff, as members, and the Attorney General and Director of the Office of Management and Budget, as observers.

(2) The SCC shall (i) consider and develop a policy recommendation, including any dissents, for the President prior to his decision on each special activity in support of national foreign policy objectives.

(ii) Conduct periodic reviews of programs previously considered by the SCC.

(iii) Give approval for specific sensitive intelligence collection operations as designated by the SCC.

(iv) Conduct periodic reviews of ongoing sensitive intelligence collection operations.

(3) The SCC shall discharge the responsibilities assigned by subparagraphs (c)(2)(i) and (c)(2)(iii) of this section only after consideration in a formal meeting attended by all members and observers; or, in unusual circumstances when any member or observer is unavailable, when a designated representative of the member or observer attends.

(4) The staff of the National Security Council shall provide support to the SCC.

(d) *Director of Central Intelligence.* (1) The Director of Central Intelligence, pursuant to the National Security Act of 1947 [see Short Title note set out under this section in the 1976 edition of the Code], shall be responsible directly to the National Security Council and the President. He shall:

(i) Chair the PRC when it carries out the duties assigned in Section 3(b) of this Order.

(ii) Act as executive head of the CIA and Intelligence Community staff.

(iii) Ensure the development and submission of a budget for the National Foreign Intelligence Program to the PRC.

* * * * *

(2) To assist the Director of Central Intelligence in the supervision and direction of the Intelligence Community, the position of Deputy to the Director of Central Intelligence for the Intelligence Community is hereby established.

* * * * *

SEC. 4. *Responsibilities and Duties of the Intelligence Community. Purpose.* The rules of operation prescribed by this section to the Order relate to the activities of our foreign intelligence agencies. In some instances, detailed implementation of this Executive order will be contained in classified documents because of the sensitivity of the information and its relation to national security. All such classified instructions will be consistent with this Order. Unless otherwise specified within this section, its provisions apply to activities both inside and outside the United States, and all references to law are to applicable laws of the United States. Nothing in this section of this Order shall be construed to interfere with any law-enforcement responsibility of any department or agency.

(a) *Senior Officials of the Intelligence Community.* The senior officials of the CIA, Departments of State, Treasury and Defense, ERDA and the FBI shall ensure that, in discharging the duties and responsibilities enumerated for their organizations which relate to foreign intelligence, they are responsive to the needs of the President, the National Security Council and other elements of the Government. In carrying out their duties and responsibilities, senior officials shall ensure that all policies and directives relating to intelligence activities are carried out in accordance with law and this Order, including Section 5, and shall:

* * * * *

(6) Furnish to the Director of Central Intelligence, the PRC, the SCC, the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight

Board all of the information required for the performance of their respective duties.

* * * * *

(e) *Department of Defense.* (1) The Secretary of Defense shall:

* * * * *

(iii) Conduct such programs and missions necessary to fulfill national intelligence requirements as determined by the PRC.

(iv) Direct, fund and operate the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required.

(v) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the PRC.

* * * * *

(f) *Energy Research and Development Administration.* The Administrator of the Energy Research and Development Administration shall:

(1) Produce intelligence required for the execution of his responsibilities and the mission of the Energy Research and Development Administration, hereinafter referred to as ERDA, including the area of nuclear and atomic energy.

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations and be responsive to the guidance of the Director of Central Intelligence and the PRC.

* * * * *

SEC. 6. *Oversight of Intelligence Organizations.* (a) There is hereby established an Intelligence Oversight Board, hereinafter referred to as the Oversight Board.

(1) The Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. No member of the Oversight Board shall have any personal contractual relationship with any agency or department of the Intelligence Community.

* * * * *

(f) [Deleted.]

* * * * *

SEC. 8. *Enabling Data.* (a) The PRC and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

* * * * *

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration, referred to above, was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 403. Central Intelligence Agency

EXECUTIVE ORDER NO. 11460

Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, set out as a note under this section, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, set out as a note below.

EX. ORD. NO. 11984. ABOLITION OF PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

JIMMY CARTER.

EX. ORD. NO. 12023. CONFORMING THE CENTRAL INTELLIGENCE AGENCY AND CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEMS

Ex. Ord. No. 12023, Dec. 1, 1977, 42 F.R. 61443, provided:

By virtue of the authority vested in me by Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (90 Stat. 2472; 50 U.S.C. 403 note), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Director of Central Intelligence, hereafter referred to as the Director, shall maintain the Central Intelligence Agency Retirement and Disability System and the Central Intelligence Agency Retirement and Disability Fund, hereafter referred to as the Fund, in accordance with the following principles:

(a) None of the moneys mentioned in the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043, as amended; 50 U.S.C. 403 note), shall be assignable, either in law or equity, except under the provisions of subsection (b) of this Section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

(b) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts of such annuity for such purposes as the Director in his sole discretion considers appropriate.

(c) No payment shall be made from the Fund unless an application for benefits based on the service of the participant is received by the Director before the one hundred and fifteenth anniversary of the participant's birth.

(d) Notwithstanding the provisions of subsection (c) of this Section, after the death of a participant or annuitant, no benefit based on the service of such person shall be paid from the Fund unless an application therefor is received by the Director within 30 years after the death or other event which gives rise to title to benefit.

(e) Sums deducted from salaries pursuant to Section 273 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1053; 50 U.S.C. 403 note) shall be deposited in the Treasury of the United States to the credit of the Fund.

SEC. 2. The provisions of this Order are effective as follows:

(a) The provisions of Sections 1(a) and 1(b) are effective as of December 23, 1975.

(b) The provisions of Sections 1(c) and 1(d) are effective as of December 31, 1975.

(c) The provisions of Section 1(e) are effective as of October 1, 1976 and shall apply to annuitants serving in appointed positions on and after that date.

SEC. 3. The Director of Central Intelligence is authorized to prescribe such regulations as are necessary to carry out the provisions of this Order.

JIMMY CARTER.

CHAPTER 23—INTERNAL SECURITY

§ 833. Termination of employment

[*See main edition for text of (a) and (b)*]

(c) Delegation of authority; limitation

Notwithstanding section 133(d) of title 10, only the Deputy Secretary of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a) of this section.

(As amended Oct. 21, 1977, Pub. L. 95-140, § 3(c), 91 Stat. 1173.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-140 substituted "Deputy Secretary" for "Deputy Secretaries".

CHAPTER 32—CHEMICAL AND BIOLOGICAL WARFARE PROGRAM

Sec.
1520. Use of human subjects for testing of chemical or biological agents by Department of Defense; accounting to Congressional committees with respect to experiments and studies notification of local civilian officials [New].

§ 1520. Use of human subjects for testing of chemical or biological agents by Department of Defense; accounting to congressional committees with respect to experiments and studies; notification of local civilian officials

(a)(1) The Secretary of Defense shall supply the Committees on Armed Services of the Senate and House of Representatives, not later than October 1 of each year, a full accounting of all experiments and studies conducted by the Department of Defense in the preceding twelve-month period, whether directly or under contract, which involve the use of human subjects for the testing of chemical or biological agents.

(2) Not later than thirty days after final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense, whether directly or under contract, involving the use of human subjects for the testing of chemical or biological agents, the Secretary of Defense shall supply the Committees on Armed Services of the Senate and House of Representatives with a full accounting of such plans for such experiment or study, and such experiment or study may then be conducted only after the expiration of the thirty-day period beginning on the date such accounting is received by such committees.

(b)(1) The Secretary of Defense may not conduct any test or experiment involving the use of any chemical or biological agent on civilian populations unless local civilian officials in the area in which the test or experiment is to be conducted are notified in advance of such test or experiment, and such test or experiment may then be conducted only after the expiration of the thirty-day period beginning on the date of such notification.

(2) Paragraph (1) shall apply to tests and experiments conducted by Department of Defense personnel and tests and experiments conducted on behalf of the Department of Defense by contractors.

(Pub. L. 95-79, title VIII, § 808, July 30, 1977, 91 Stat. 334.)

CODIFICATION

Section was not enacted as part of Pub. L. 91-121, title IV, § 409, Nov. 19, 1969, 83 Stat. 209, which comprises this chapter.

CHAPTER 34—NATIONAL EMERGENCIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1706 of this title.

SUBCHAPTER I—TERMINATING EXISTING DECLARED EMERGENCIES

§ 1601. Termination of existing declared emergencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1706 of this title.

SUBCHAPTER II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1706 of this title.

§ 1622. National emergencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1706 of this title.

SUBCHAPTER IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1703 of this title.

SUBCHAPTER V—APPLICATION TO POWERS AND AUTHORITIES OF OTHER PROVISIONS OF LAW AND ACTIONS TAKEN THEREUNDER

§ 1651. Other laws, powers and authorities conferred thereby, and actions taken thereunder; Congressional studies

(a) The provisions of this chapter shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) Repealed. Pub. L. 95-223, title I, § 101(d), Dec. 28, 1977, 91 Stat. 1625.

[*See main edition for text of (2) to (8); (b)*]

(As amended Pub. L. 95-223, title I, § 101(d), Dec. 28, 1977, 91 Stat. 1625.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-223 struck out subsec. (a)(1), which had read: "Section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a; 50 U.S.C. App. 5(b));".

CHAPTER 35—INTERNATIONAL EMERGENCY ECONOMIC POWERS [NEW]

Sec.
1701. Unusual and extraordinary threat; declaration of national emergency; exercise of Presidential authorities.
1702. Presidential authorities.
1703. Consultation and reports.
(a) Consultation with Congress.
(b) Report to Congress upon exercise of Presidential authorities.
(c) Periodic follow-up reports.
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1704. Authority to issue regulations.
1705. Penalties.
1706. Savings provisions.
(a) Termination of national emergencies pursuant to National Emergencies Act.
(b) Congressional termination of national emergencies by concurrent resolution.
(c) Supplemental savings provisions; supersedure of inconsistent provisions.
(d) Periodic reports to Congress.

§ 1701. Unusual and extraordinary threat; declaration of national emergency; exercise of Presidential authorities

(a) Any authority granted to the President by section 1702 of this title may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 1702 of this title may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this chapter and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

(Pub. L. 95-223, title II, § 202, Dec. 28, 1977, 91 Stat. 1626.)

Short Title

Section 201 of Pub. L. 95-223 provided that: "This title [enacting this chapter] may be cited as the 'International Emergency Economic Powers Act'."

Separability of Provisions

Section 208 of Pub. L. 95-223 provided that: "If any provision of this Act [this chapter] is held invalid, the remainder of the Act shall not be affected thereby."

Section Referred to in Other Sections

This section is referred to in section 1702 of this title.

§ 1702. Presidential authorities

(a)(1) At the times and to the extent specified in section 1701 of this title, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest;

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value; or

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 1701 of this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

(Pub. L. 95-223, title II, § 203, Dec. 28, 1977, 91 Stat. 1626.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

§ 1703. Consultation and reports

(a) Consultation with Congress

The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this chapter and shall consult regularly with the Congress so long as such authorities are exercised.

(b) Report to Congress upon exercise of Presidential authorities

Whenever the President exercises any of the authorities granted by this chapter, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) Periodic follow-up reports

At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) of this section with respect to an exercise of authorities under this chapter, the President shall report to the Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b) of this section.

(d) Supplemental requirements

The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act [50 U.S.C. 1641].

(Pub. L. 95-223, title II, § 204, Dec. 28, 1977, 91 Stat. 1627.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (d), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title IV of the National Emergencies Act enacted subchapter IV (§ 1641) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

§ 1704. Authority to issue regulations

The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this chapter.

(Pub. L. 95-223, title II, § 205, Dec. 28, 1977, 91 Stat. 1628.)

§ 1705. Penalties

(a) A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under this chapter.

(b) Whoever willfully violates any license, order, or regulation issued under this chapter shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(Pub. L. 95-223, title II, § 206, Dec. 28, 1977, 91 Stat. 1628.)

§ 1706. Savings provisions

(a) Termination of national emergencies pursuant to National Emergencies Act

(1) Except as provided in subsection (b) of this section, notwithstanding the termination pursuant to the National Emergencies Act [50 U.S.C. 1601 et seq.] of a national emergency declared for purposes of this chapter, any authorities granted by this chapter, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) Congressional termination of national emergencies by concurrent resolution

The authorities described in subsection (a)(1) of this section may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act [50 U.S.C. 1622] and if the Congress specifies in such concurrent resolu-

tion that such authorities may not continue to be exercised under this section.

(c) Supplemental savings provisions; supersedure of inconsistent provisions

(1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) [50 U.S.C. 1601(a)(1), (2), (3)] and of paragraphs (A), (B), and (C) of section 202(a) [50 U.S.C. 1622(a)(A), (B), and (C)] of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) [50 U.S.C. 1601(a)] and of title II [50 U.S.C. 1621 et seq.] of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) Periodic reports to Congress

If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

(Pub. L. 95-223, title II, § 207, Dec. 28, 1977, 91 Stat. 1628.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsecs. (a)(1) and (c)(2), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§ 1601 et seq.) of this title. Title II of the National Emergencies Act is classified generally to subchapter II (§ 1621 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

Section 101(b) of this Act, referred to in subsec. (a)(2), is section 101(b) of Pub. L. 95-223, which is set out as a note under section 5 of the Appendix to this title.

TITLE 50—APPENDIX

WAR AND NATIONAL DEFENSE

TRADING WITH THE ENEMY ACT OF 1917

ACT OCT. 6, 1917, CH. 106, 40 STAT. 411

§ 5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties

[*See main edition for text of* (*a*)]

(b)(1) During the time of war, the President may, through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

[*See main edition for text of* (*A*) *and* (*B*)]

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

[*See main edition for text of* (*2*)]

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

(As amended Dec. 28, 1977, Pub. L. 95-223, title I, §§ 101(a), 102, 103(b), 91 Stat. 1625, 1626.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-223, §§ 101(a), 102, substituted "During the time of war, the President may, through any agency that he may designate, and under such rules and regulations" for "During the time of war or during any other period of national emergency declared by the President, the President may, through any agency, that he may designate, or otherwise, and under such rules and regulations" in the provisions preceding subpar. (A), and, in the provisions following subpar. (B), struck out "; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision" following "control of such person".

Subsec. (b)(3). Pub. L. 95-22, § 103(b), struck out provisions that whoever willfully violated any of the provisions of this subdivision or of any license, order, rule, or regulation issued thereunder, could be fined not more than $10,000, or, if a natural person, could be imprisoned for not more than ten years, or both; and that any officer, director, or agent of any corporation who knowingly participated in that violation could be punished by a like fine, imprisonment, or both.

EXTENSION AND TERMINATION OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

Section 101(b) and (c) of Pub. L. 95-223 provided that:

"(b) Notwithstanding the amendment made by subsection (a) [amending subsec. (b)(1) of this section], the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act [section 1601(a) of this title]) at the end of the two-year period

beginning on the date of enactment of the National Emergencies Act [Sept. 14, 1976]. The President may extend the exercise of such authorities for one-year periods upon a determination for each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

"(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) [section 1601(a) of this title] and of title II [section 1621 et seq. of this title] of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2680; title 31 section 824.

§ 16. Offenses; punishment; forfeitures of property

Whoever shall willfully violate any of the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] or of any license, rule or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act [said sections] shall, upon conviction, be fined not more than $50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.

(As amended Dec. 28, 1977, Pub. L. 95-233, title I, § 103(a), 91 Stat. 1626.)

AMENDMENTS

1977—Pub. L. 95-223 substituted "$50,000" for "$10,000".

MILITARY SELECTIVE SERVICE ACT

ACT JUNE 24, 1948, CH. 625, 62 STAT. 604

§ 462. Offenses and penalties

ADVERTISING PROHIBITION ON SPECIAL DISCHARGE REVIEW PROGRAM

Pub. L. 95-79, title VIII, § 810, July 30, 1977, 91 Stat. 335, provided that: "No funds authorized or appropriated under this or any other Act shall be expended to purchase advertising of any sort for the purpose of advertising the existence of the special discharge review program for certain individuals who served in the Armed Forces of the United States between August 4, 1964, and March 28, 1973, which was established by order of the Secretary of Defense on April 5, 1977."

§ 468. Utilization of industry

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Nuclear Regulatory Commission and the Administrator of the Energy Research and Development Administration by sections 5814 and 5841 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

SECOND WAR POWERS ACT, 1942

ACT MAR. 27, 1942, CH. 199, 56 STAT. 176

TITLE XIII—INSPECTION AND AUDIT OF WAR CONTRACTORS

§ 643. Plant, books, and records of war contractors; definition of defense contract; agency designated to administer provisions

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

PHOTOGRAPHING, MAPPING OR OTHER REPRESENTATION OF MILITARY OR DEFENSE PROPERTIES

ACT JUNE 25, 1942, CH. 447, 56 STAT. 390

§ 785. Effective date of sections 781 to 785

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

ACT MAR. 23, 1951, CH. 15, 65 STAT. 7

TITLE I—RENEGOTIATION OF CONTRACTS

§ 1213. Definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

DEFENSE PRODUCTION ACT OF 1950

ACT SEPT. 8, 1950, CH. 932, 64 STAT. 798

§ 2061. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-37, § 1, June 1, 1977, 91 Stat. 178, provided: "That this Act [which amended section 2166(a) of this Appendix] may be cited as the 'Defense Production Act Extension Amendments of 1977'."

DELEGATION OF FUNCTIONS

* * * * *

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

§§ 2071 to 2073

TERMINATION DATE

Termination of sections on Sept. 30, 1979, see section 2166(a) of this Appendix.

§§ 2091 to 2094

TERMINATION DATE

Termination of sections on Sept. 30, 1979, see section 2166(a) of this Appendix.

§§ 2151 to 2157

TERMINATION DATE

Termination of sections on Sept. 30, 1979, see section 2166(a) of this Appendix.

§§ 2159 to 2163

TERMINATION DATE

Termination of sections on Sept. 30, 1979, see section 2166(a) of this Appendix.

§§ 2164, 2165

TERMINATION DATE

Termination of sections on Sept. 30, 1979, see section 2166(a) of this Appendix.

§ 2166. Termination of Act

(a) Title I [sections 2071 to 2074 of this Appendix] (except section 104 [section 2074 of this Appendix]) title III [sections 2091 to 2094 of this Appendix], and title VII [sections 2151 to 2169 of this Appendix] (except sections 708, 714, and 719 [sections 2158, 2163a, and 2168 of this Appendix]) of this Act, and all authority conferred thereunder, shall terminate at the close of September 30, 1979: *Provided,* That all authority hereby or hereafter extended under title III of this Act [sections 2091 to 2094 of this Appendix] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. Section 714 of this Act [section 2163a of this Appendix], and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104 [section 2074 of this Appendix], and title II [section 2081 of this Appendix], and title VI [sections 2131 to 2137 of this Appendix] of this Act, and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Title IV [sections 2101 to 2112 of this Appendix] and V [sections 2121 to 2123 of this Appendix] of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

[*See main edition for text of* (b) *to* (d)]

(As amended June 1, 1977, Pub. L. 95-37, § 2, 91 Stat. 178.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-37 extended the termination date from Sept. 30, 1977 to Sept. 30, 1979.

§ 2167. Feasibility study of application of uniform cost accounting standards to defense procurement contracts; consultations; reports

TERMINATION DATE

Termination of section on Sept. 30, 1979, see section 2166(a) of this Appendix.

§ 2169. National Commission on Supplies and Shortages

TERMINATION DATE

Termination of section on Sept. 30, 1979, see section 2166(a) of this Appendix.

CIVIL DEFENSE

ACT OF JAN. 12, 1951

§ 2271. Federal Civil Defense Administration

TRANSFER OF FUNCTIONS

The Office of Telecommunications Policy, referred to in section 306 of Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, set out under this section in the 1976 edition of this Code, was abolished by Reorg. Plan No. 1 of 1977, § 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President, and the functions of the Office and the Director thereof were transferred to the Secretary of Commerce by section 5B of Reorg. Plan No. 1 of 1977, except for those functions of the Office and the Director thereof relating to the preparation of Presidential telecommunications policy operations and the disposition of appeals from assignments of radio frequencies to stations of the United States government, which were transferred to the President by said section 5B of Reorg. Plan No. 1 of 1977 with power to delegate within the Executive Office of the President.

EMERGENCY FOOD AID TO INDIA

ACT JUNE 15, 1951, CH. 138, 65 STAT. 69

§ 2316. Use of repayment funds; limitation

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof under this section were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(11), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

EXPORT REGULATION

PUB. L. 91-184, DEC. 30, 1969, 83 Stat. 841

Sec.
2403-1a. Foreign boycotts [New].
2411a. Authorization of appropriations [New].

§ 2401. Congressional findings

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-52, § 1, June 22, 1977, 91 Stat. 235, provided that: "This Act [enacting sections 2403-1a and 2411a of this Appendix, amending sections 2402, 2403, 2403a, 2404, 2405, 2406, 2407, 2409, 2410, 2412, and 2413 of this Appendix, and enacting provisions set out as notes under sections 2403, 2403-1a, and 2409 of this

Appendix] may be cited as the 'Export Administration Amendments of 1977'."

§ 2402. Congressional declaration of policy

The Congress makes the following declarations:

[*See main edition for text of (1) to (4)*]

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person, (B) to encourage and, in specified cases, to require United States persons engaged in the export of articles, materials, supplies, or information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person, and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

[*See main edition for text of (6) and (7)*]

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(As amended Pub. L. 95-52, title I, § 115, title II, § 202, June 22, 1977, 91 Stat. 241, 247.)

AMENDMENTS

1977—Par. (5). Pub. L. 95-52, § 202, inserted "or against any United States person" following "countries friendly to the United States" in cl. (A), and, in cl. (B), substituted "to encourage and, in specified cases, to require United States persons engaged in the export of articles, materials, supplies, or information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person "for" to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States".

Par. (8). Pub. L. 95-52, § 115, added par. (8).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2403, 2403-1a, 2404, 2409 of this Appendix; title 26 section 993; title 42 section 6212.

§ 2403. Authority to effectuate policy

[*See main edition for text of (a)*]

(b) Prohibition or curtailment of exports; administration of export controls for national security; periodic review; rules and regulations

(1) To effectuate the policies set forth in section 3 of this Act [section 2402 of this Appendix], the President may prohibit or curtail the exportation, except under such rules and regulations as he shall prescribe, of any articles, materials, or supplies, including technical data or any other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act [sections 2401 to 2413 of this Appendix], these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing the exportation of any articles, materials, or supplies to effectuate the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix], the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence. The results of such review, together with the justification for United States policy in light of such factors, shall be reported to Congress not later than December 31, 1978, in the semiannual report of the Secretary of Commerce required by section 10 of this Act [section 2409 of this Appendix], and in every second such report thereafter.

(B) Rules and regulations under this subsection may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data or any other information, to any nation or combination of nations threatening the national security of the United States if the President determines that their export would prove detrimental to the national security of the United States. The President shall not impose export

controls for national security purposes on the export of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those which would be subject to such controls, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the semiannual report required by section 10 of this Act [section 2409 of this Appendix]. Where, in accordance with this paragraph, export controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(c) Monitoring of exports and contracts for exports; weekly or monthly monitoring reports

(1) To effectuate the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix], the Secretary of Commerce shall monitor exports, and contracts for exports, of any article, material, or supply (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) [7 U.S.C. 612c-3] when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act [sections 2401 to 2413 of this Appendix]. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 7(c) of this Act [section 2406(c) of this Appendix].

[*See main edition for text of (2); (d) and (e)*]

(f) Exclusion of agricultural commodities; exemptions; Congressional review of export controls on agricultural commodities

(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act [section 2402 of this Appendix].

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix] subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(3) If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (A) or (B) of paragraph (2) of section 3 of this Act [section 2402(2)(A) or (B) of this Appendix], the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(g) Time for approval or disapproval of export license application; notice to applicant of need for additional time

(1) It is the intent of Congress that any export license application required under this Act [sections 2401 to 2413 of this Appendix] shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act [sections 2401 to 2413 of this Appendix] which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

(2)(A) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in para-

graph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act [sections 2401 to 2413 of this Appendix]. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.

(B) Whenever the Secretary determines that it is necessary to refer an export license application to any interagency review process for approval, he shall first, if the applicant so requests, provide the applicant with an opportunity to review any documentation to be submitted to such process for the purpose of describing the export in question, in order to determine whether such documentation accurately describes the proposed export.

(3) In any denial of an export license application, the applicant shall be informed in writing of the specific statutory basis for such denial.

(h) Exports of goods and technology which make a contribution to the military potential of countries detrimental to the national security of the United States; procedures for assessment and review of license requests

(1) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a country to which exports are restricted for national security purposes without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will make a significant contribution to the military potential of such country. It is the purpose of this subsection to provide for such an assessment and to authorize the Secretary of Defense to review any proposed export of goods or technology to any such country and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him to carry out the purpose of this subsection. Whenever a license or other authority is requested for the export of such goods or technology to any country to which exports are restricted for national security purposes; the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and, not later than 30 days after notification of the request shall—

(A) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would provide detrimental to the national security of the United States, to the military potential of such country or any other country;

(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act [sections 2401 to 2413 of this Appendix] are imposed; or

(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within 30 days after receiving a recommendation from the Secretary, that he disapproves such export, no license or other authorization may be issued for the export of such goods or technology to such country.

[*See main edition for text of* (3)]

(4) As used in this subsection—

(A) the term "goods or technology" means—

(i) machinery, equipment, capital goods, or computer software; or

(ii) any license or other arrangement for the use of any patent, trade secret, design, or plan with respect to any item described in clause (i); and

(B) the term "export control office" means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology.

[*See main edition for text of* (i)]

(j) Petroleum exports

Petroleum products refined in United States Foreign-Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix], except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(k) Export of horses

(1) Notwithstanding any other provision of this Act [sections 2401 to 2413 of this Appendix], no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may

issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(*l*) Domestically produced crude oil transported through pipelines over public lands; Presidential findings

(1) Notwithstanding any other provision of this Act [sections 2401 to 2413 of this Appendix] and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 [section 185(u) of title 30], no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to such section 28 (except any such crude oil which (A) is exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, during the 2-year period beginning on the date of enactment of this subsection [June 22, 1977], unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil—

(i) will not diminish the total quantity or quality of petroleum available to the United States,

(ii) will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs of refiners,

(iii) will be made only pursuant to contracts which may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened,

(iv) are in the national interest, and

(v) are in accordance with the provisions of this Act [sections 2401 to 2413 of this Appendix]; and

(B) the President reports such finding to the Congress as an energy action (as defined in section 551 of the Energy Policy and Conservation Act) [section 6421 of title 42].

The congressional review provisions of such section 551 shall apply to an energy action reported in accordance with this paragraph, except that for purposes of this paragraph, any reference in such section to a period of 15 calendar days of continuous session of Congress shall be deemed to be a reference to a period of 60 calendar days of continuous session of Congress and the period specified in subsection (f)(4)(A) of such section for committee action on a resolution shall be deemed to be 40 calendar days.

(As amended Pub. L. 95-52, title I, §§ 103(a), (b)(1)-(3), (c), 104-110, 113(b), title II, § 201(b), June 22, 1977, 91 Stat. 235-239, 241, 246; Pub. L. 95-223, title III, § 301(a), (b)(1), Dec. 28, 1977, 91 Stat. 1629.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-223, § 301(a), substituted "the exportation, except under such rules and regulations as he shall prescribe, of any articles, materials, or supplies, including technical data or any other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States" for "the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe".

Pub. L. 95-52, §§ 103(a)(1), 201(b), struck out provisions that had allowed the authorized rules and regulations to provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data, or any other information, from the United States, its territories and possessions, to any nation or combination of nations threatening the national security of the United States if the President determined that their export would prove detrimental to the national security of the United States, regardless of their availability from nations other than any nation or combination of nations threatening the national security of the United States, but whenever export licenses were required on the ground that considerations of national security overrode considerations of foreign availability, the reasons for so doing be reported to the Congress in the quarterly report following the decision to require such licenses on that ground to the extent considerations of national security and foreign policy permitted, and had directed that the rules and regulations implement the provisions of section 2402(5) of this Appendix and require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in that section report this fact to the Secretary of Commerce for such action as he might deem appropriate to carry out the purposes of that section. See subsec. (b)(2)(B) of this section.

Subsec. (b)(2). Pub. L. 95-52, § 103(a)(2), (3), added subsec. (b)(2). Former subsec. (b)(2), which directed the Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees, to undertake an investigation to determine which articles, materials, and supplies, including technical data and other information, should no longer be subject to export controls because of their significance to the national security of the United States, and directed the President to remove unilateral export controls on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determined were available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, except that any such control could remain in effect if the President determined that adequate evidence had been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States, was stricken.

Subsec. (b)(2)(B). Pub. L. 95-223, § 301(b), struck out ", from the United States, its territories and possessions" following "Rules and regulations under this subsection may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data or any other information", struck out "from the United States" following "The President shall not impose export controls for national security purposes on the export", and substituted "which would be subject to such controls" for "produced in the United States".

Subsec. (b)(3). Pub. L. 95-52, § 103(a)(2), struck out subsec. (b)(3) which had provided that, in conducting

his investigation and in taking the required action, the Secretary of Commerce give priority to those controls which applied to articles, materials, and supplies, including technical data and other information, for which there were significant potential export markets.

Subsec. (b)(4). Pub. L. 95-52, § 103(a)(2), struck out subsec. (b)(4) (which had been omitted in the 1976 edition of this Code as expired pursuant to its own terms) which had directed the Secretary of Commerce to submit to the President and to the Congress a special report of actions taken under former subsecs. (b)(2) and (b)(3) of this section, with the report to contain a list of any articles, materials, and supplies, including technical data and other information, which were subject to export controls greater than those imposed by nations with which the United States had defense treaty commitments, and the reasons for such greater controls, and a list of any procedures applicable to export licensing in the United States which could be more burdensome than similar procedures utilized in nations with which the United States had defense treaty commitments, and the reasons for retaining such procedures in their present form.

Subsec. (c)(1). Pub. L. 95-542, §§ 104, 113(b), added requirement that monitoring commence at a time adequate to insure that data be sufficiently available to permit achievement of export administration policies and added reference to the provisions that the confidentiality of monitoring information not be used to withhold information from Congress.

Subsec. (f). Pub. L. 95-52, §§ 105, 106, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (g). Pub. L. 95-52, § 107, designated existing provisions as par. (1), substituted "It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt" for "Any export license application required by the exercise of authority under this Act to effectuate the policies of section 3(1)(B) or 3(2)(C) shall be approved or disapproved not later than 90 days after its submission" and "Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made" for "If additional time is required, the Secretary of Commerce or other official exercising authority under this Act shall inform the applicant of the circumstances requiring such additional time and give an estimate of when his decision will be made" in par. (1) as so designated, and added pars. (2) and (3).

Subsec. (h)(1). Pub. L. 95-52, § 103(b)(1), (c)(1), substituted "country to which exports are restricted for national security purposes" for "controlled country" and "make a significant contribution to the military potential of such country" for "significantly increase the military capability of such country" in the statement setting out the Congressional finding, and substituted "make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country" for "significantly increase the military capability of such country" in the statement setting out the Congressional declaration of purpose.

Subsec. (h)(2). Pub. L. 95-52, § 103(b)(1), (2), (c)(2), substituted "country to which exports are restricted for national security purposes" for "controlled country" in the provisions preceding subpar. (A) and, in subpar. (A), substituted "such country" for "controlled country" and "make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country" for "significantly increase the military capability of such country".

Subsec. (h)(4). Pub. L. 95-52, § 103(b)(3), struck out provisions which had defined the term "controlled country" as meaning any Communist country as defined under section 620(f) of the Foreign Assistance Act of 1961.

Subsec. (j). Pub. L. 95-52, § 108, added subsec. (j).

Subsec. (k). Pub. L. 95-52, § 109, added subsec. (k).

Subsec. (l). Pub. L. 95-52, § 110, added subsec. (l).

Effective Date of 1977 Amendment

Section 103(b)(4) of Pub. L. 95-52 provided that: "The amendments made by this subsection [striking out references to controlled countries in subsec. (h) of this section] shall become effective upon the expiration of ninety days after the receipt by the Congress of the first report required by the amendment made by subsection (a)(3) of this section [adding subsec. (b)(2) of this section]."

Review of Unilateral and Multilateral Export Control Lists; Results to be Reported to Congress Not Later Than December 31, 1978

Section 118 of Pub. L. 95-52 provided that: "The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established pursuant to the Export Administration Act of 1969 [sections 2401 to 2413 of this Appendix], shall undertake an investigation to determine whether United States unilateral controls or multilateral controls in which the United States participates should be removed, modified, or added with respect to particular articles, materials, and supplies, including technical data and other information, in order to protect the national security of the United States. Such investigation shall take into account such factors as the availability of such articles, materials, and supplies from other nations and the degree to which the availability of the same from the United States or from any country with which the United States participates in multilateral controls would make a significant contribution to the military potential of any country threatening or potentially threatening the national security of the United States. The results of such investigation shall be reported to the Congress not later than December 31, 1978."

Technology Export Study; Results to be Reported to Congress Within One Year After June 22, 1977

Section 119 of Pub. L. 95-52 provided that:

"(a) The President, acting through the Secretary of Commerce, the Secretary of Labor, and the International Trade Commission, shall conduct a study of the domestic economic impact of exports from the United States of industrial technology whose export requires a license under the Export Administration Act of 1969 [sections 2401 to 2413 of this Appendix]. Such study shall include an evaluation of current exporting patterns on the international competitive position of the United States in advanced industrial technology fields and an evaluation of the present and future effect of these exports on domestic employment.

"(b) The results of the study conducted pursuant to subsection (a) will be reported to the Congress within one year after the date of enactment of this Act [June 22, 1977]."

Report on Technical Data Transfers; Report to Congress Not Later Than June 22, 1978

Section 120 of Pub. L. 95-52 provided that: "The Secretary of Commerce shall conduct a study of the transfer of technical data and other information to any country to which exports are restricted for national security purposes and the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the

United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 12 months after the enactment of this section [June 22, 1977], the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United States and his recommendations for monitoring such exports without impairing freedom of speech, freedom of press, or the freedom of scientific exchange. Such report may be included in the semiannual report required by section 10 of the Export Administration Act of 1969 [section 2409 of this Appendix]."

Executive Order No. 11533

Ex. Ord. No. 11533, June 4, 1970, 35 F.R. 8799, as amended by Ex. Ord. No. 11907, Mar. 1, 1976, 41 F.R. 9085, set out as a note under this section in the 1976 edition of the Code, which provided for the administration of the Export Administration Act, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out as a note below.

Executive Order No. 11683

Ex. Ord. No. 11683, Aug. 29, 1972, 37 F.R. 17813, set out as a note under this section in the 1976 edition of the Code, which revoked Ex. Ord. No. 11677, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out as a note below.

Executive Order No. 11798

Ex. Ord. No. 11798, Aug. 14, 1974, 39 F.R. 29567, set out as a note under this section in the 1976 edition of the Code, which provided for the continuing regulation of exports, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out as a note below.

Executive Order No. 11818

Ex. Ord. No. 11818, Nov. 5, 1974, 39 F.R. 39429, set out as a note under this section in the 1976 edition of the Code, which provided for the continuing regulation of exports, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out as a note below.

Executive Order No. 11940

Ex. Ord. No. 11940, Sept. 30, 1976, 41 F.R. 43707, set out as a note under this section in the 1976 edition of the Code, which provided for the continuing regulation of exports, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out as a note below.

Ex. Ord. No. 12002. Administration of Export Administration Act

Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, *et seq.*), and as President of the United States of America, it is hereby ordered as follows:

Section 1. Except as provided in Section 2, the power, authority, and discretion conferred upon the President by the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, *et seq.*), hereinafter referred to as the Act, are delegated to the Secretary of Commerce, with the power of successive redelegation.

Sec. 2. (a) The power, authority and discretion conferred upon the President in Sections 4(h) and 4(l) of the Act [subsecs. (h) and (l) of this section] are retained by the President.

(b) The power, authority and discretion conferred upon the President in Section 3(8) of the Act [section 2402(8) of this Appendix], which directs that every reasonable effort be made to secure the removal or reduction of assistance by foreign countries to international terrorists through cooperation and agreement, are delegated to the Secretary of State, with the power of successive redelegation.

Sec. 3. The Export Administration Review Board, hereinafter referred to as the Board, which was established by Executive Order No. 11533 of June 4, 1970, as amended, is hereby continued. The Board shall continue to have as members the Secretary of Commerce, who shall be Chairman of the Board, the Secretary of State, the Secretary of Defense, and the Chairman of the East-West Foreign Trade Board (Section 7 of Executive Order No. 11846, as amended) [set out as a note under section 2111 of Title 19, Customs Duties]. No alternate Board members shall be designated, but the acting head of any department may serve in lieu of the head of the concerned department. In the case of the East-West Foreign Trade Board, the Deputy Chairman or the Executive Secretary may serve in lieu of the Chairman. The Board may invite the heads of other United States Government departments or agencies, other than the agencies represented by Board members, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

Sec. 4. The Secretary of Commerce may from time to time refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as the Secretary shall select. The Secretary of Commerce shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or of the head of any other United States Government department or agency having any interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, and the domestic economy, and shall make recommendation thereon to the Secretary of Commerce.

Sec. 5. The President may at any time (a) prescribe rules and regulations applicable to the power, authority, and discretion referred to in this Order, and (b) communicate to the Secretary of Commerce such specific directives applicable thereto as the President shall determine. The Secretary of Commerce shall from time to time report to the President upon the administration of the Act and, as the Secretary deems necessary, may refer to the President recommendations made by the Board under Section 4 of this Order. Neither the provisions of this section nor those of Section 4 shall be construed as limiting the provisions of Section 1 of this Order.

Sec. 6. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under, or continued in existence by, the Executive orders revoked in Section 7 of this Order, and not revoked administratively or legislatively, shall remain in full force and effect under this Order until amended, modified, or terminated by proper authority. The revocations in Section 7 of this Order shall not affect any violation of any rules, regulations, orders, licenses or other forms of administrative action under those Orders during the period those Orders were in effect.

Sec. 7. Executive Order No. 11533 of June 4, 1970, Executive Order No. 11683 of August 29, 1972, Executive Order No. 11798 of August 14, 1974, Executive Order No. 11818 of November 5, 1974, Executive Order No. 11907 of March 1, 1976, and Executive Order No. 11940 of September 30, 1976 are hereby revoked.

Jimmy Carter.

Section Referred to in Other Sections

This section is referred to in sections 2403-1a, 2404, 2406, 2409 of this Appendix; title 26 section 993.

§ 2403-1a. Foreign boycotts

(a)(1) For the purpose of implementing the policies set forth in section 3(5) (A) and (B) [section 2402(5)(A) and (B) of this Appendix], the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms after the expiration of 1 year following the date of enactment of the Export Administration Amendments of 1977 [June 22, 1977] other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into

such country of trademarked, trade-named, or similarly specifically identifiable products or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than 90 days after the date of enactment of this section [June 22, 1977] and shall be issued in final form and become effective not later than 120 days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than 1 year after the date of enactment of this section [June 22, 1977], and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed 1 additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act [sections 2401 to 2413 of this Appendix] shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act [sections 2401 to 2413 of this Appendix] as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(b) of this Act [section 2403(b) of this Appendix] shall implement the policies set forth in section 3(5) [section 2402(5) of this Appendix].

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) [section 2402(5) of this Appendix] shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section [June 22, 1977] shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any articles, materials, and supplies, including technical data and other information, to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act [section 2402(5) of this Appendix].

(Pub. L. 91-184, § 4A, as added Pub. L. 95-52, title II, § 201(a), June 22, 1977, 91 Stat. 244.)

PREEMPTION OF LAWS, RULES, OR REGULATIONS OF OTHER GOVERNMENTAL ENTITIES PERTAINING TO RESTRICTIVE TRADE PRACTICES OR BOYCOTTS BY FOREIGN COUNTRIES

Section 205 of Pub. L. 95-52 provided that: "The amendments made by this title [enacting this section and amending sections 2402, 2403, 2405, 2406, 2407, and 2410 of this Appendix] and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2405, 2406 of this Appendix.

§ 2403a. Hardship relief from export controls

CODIFICATION

Section 4A of Pub. L. 91-184 was redesignated section 4B by Pub. L. 95-52, title II, § 201(a), June 22, 1977, 91 Stat. 244.

§ 2404. Control and monitoring of exports

[*See main edition for text of* (a) *and* (b)]

(c) Technical advisory committees; appointment; composition; term of members; duties and functions; reimbursement for travel, etc., expenses; chairman; meetings; termination or extension; disclosure of information relating to export controls

(1) Upon written request by representatives of a substantial segment of any industry which produces articles, materials and supplies, including technical data and other information, which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such articles, materials, and supplies, including technical data and other information, which he determines is difficult to

evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No person serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(d) [section 2403(d) of this Appendix] with respect to actions designed to carry out the policy set forth in section 3 of this Act [section 2402 of this Appendix]. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any articles, materials, and supplies, including technical data or other information, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Secretary shall include in each semiannual report required by section 10 of this Act [section 2409 of this Appendix] an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act [sections 2401 to 2413 of this Appendix]. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

[*See main edition for text of* (3) *to* (5)]

(As amended Pub. L. 95-52, title I, § 111, June 22, 1977, 91 Stat. 240.)

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-52, § 111(a), substituted "four consecutive years" for "two consecutive years" as the allowable length of service of industry representatives on technical advisory committees.

Subsec. (c)(2). Pub. L. 95-52, § 111(b), (c), substituted "Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any articles, materials, and supplies, including technical data or other information, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls" for "Such committees shall be consulted with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to any articles, materials, or supplies, including technical data or other information, and including those whose export is subject to multilateral controls undertaken with nations with which the United States has defense treaty commitments, for which the committees have expertise" and "The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act" for "Such committees shall also be consulted and kept fully informed of progress with respect to the investigation required by section 4(b)(2) of this Act."

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2406, 2409 of this Appendix.

§ 2405. Violations and penalties

(a) Generally; subsequent offenses

Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act [sections 2401 to 2413 of this Appendix] or any regulation, order, or license issued thereunder shall be fined not more than $25,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Export to nations to which exports have been restricted for national security or foreign policy purposes; penalties

Whoever willfully exports anything contrary to any provision of this Act [sections 2401 to 2413 of this Appendix] or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(c) Civil penalties; suspension or revocation of authority to export; administrative proceedings

(1) The head of any department or agency exercising any functions under this Act [sections 2401 to 2413 of this Appendix], or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act [said sections] or any

regulation, order, or license issued under this Act [said sections], either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority of this Act [sections 2401 to 2413 of this Appendix] to suspend or revoke the authority of any United States person to export articles, materials, supplies, or technical data or other information, may be used with respect to any violation of the rules and regulations issued pursuant to section 4A(a) of this Act [section 2403-1a(a) of this Appendix].

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act [sections 2401 to 2413 of this Appendix] for a violation of the rules and regulations issued pursuant to section 4A(a) of this Act [section 2403-1a(a) of this Appendix] may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 4A(a) of this Act [section 2403-1a(a) of this Appendix] shall be made available for public inspection and copying.

(d) Penalties as conditions for grant, restoration, or validity of license; deferral or suspension of penalties

The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

[*See main edition for text of (e) to (g)*]

(As amended Pub. L. 95-52, title I, §§ 103(d), 112, title II, § 203(a), June 22, 1977, 91 Stat. 237, 240, 247; Pub. L. 95-223, title III, § 301(b)(2), Dec. 28, 1977, 91 Stat. 1629.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-52, § 112(a), substituted "$25,000" for "$10,000" and "$50,000" for "$20,000".

Subsec. (b). Pub. L. 95-52, §§ 103(d), 112(b), substituted "country to which exports are restricted for national security or foreign policy purposes" for "Communist-dominated nation" and "$50,000" for "$20,000".

Subsec. (c). Pub. L. 95-52, §§ 112(c), 203(a), designated existing provisions as par. (1), substituted "$10,000" for "$1,000" in par. (1) as so designated, and added par. (2).

Subsec. (c)(2)(A). Pub. L. 95-223 struck out ", from the United States, its territories or possessions" following "technical data or other information".

Subsec. (d). Pub. L. 95-52, § 112(d), added provision for the deferral or suspension of penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2406, 2407, 2409 of this Appendix; title 22 section 2778.

§ 2406. Enforcement

[*See main edition for text of (a) and (b)*]

(c) Disclosure of confidential information

Except as otherwise provided by the third sentence of section 4A(b)(2) [section 2403-1a(b)(2) of this Appendix] and by section 6(c)(2)(C) of this Act [section 2405(c)(2)(C) of this Appendix], no department, agency, or official exercising any functions under this Act [sections 2401 to 2413 of this Appendix] shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest. Nothing in this Act [sections 2401 to 2413 of this Appendix] shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b) [section 2403(b) of this Appendix], shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

[*See main edition for text of (d)*]

(e) Simplification of export regulations and lists

The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c) [section 2404(c) of this Appendix], shall review the rules and regulations issued under this Act [sections 2401 to 2413 of this Appendix] and the lists of articles, materials, and supplies which are subject to export controls in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations, by simplifying or clarifying such lists, or by any other means. Not later than one year after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act [section 2409 of this Appendix].

(As amended Pub. L. 95-52, title I, §§ 113(a), 114, title II, § 201(c), June 22, 1977, 91 Stat. 241, 246.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-52, §§ 113(a), 201(c), substituted "Except as otherwise provided by the third sentence of section 4A(b)(2) and by section 6(c)(2)(C) of this Act, no" for "No". in the first sentence and added provisions that information not be withheld from Congress but that confidential information given the Congress not be disclosed unless the full committee receiving the information determines that the withholding thereof would be contrary to the national interest.

Subsec. (e). Pub. L. 95-52, § 114, added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2403 of this Appendix; title 22 section 2778; title 42 section 6274.

§ 2407. Exemption from administrative procedure and judicial review provisions

Except as provided in section 6(c)(2) [section 2405(c)(2) of this Appendix], the functions exercised under this Act [sections 2401 to 2413 of this Appendix] are excluded from the operation of sections 551, 553-559, and 701-706, of title 5 United States Code.

(As amended Pub. L. 95-52, title II, § 203(b), June 22, 1977, 91 Stat. 247.)

AMENDMENTS

1977—Pub. L. 95-52 substituted "Except as provided in section 6(c)(2), the" for "The".

§ 2409. Reports

[*See main edition for text of (a)*]

(b)(1) The report required for the first quarter of 1975 and every report thereafter shall include summaries of the information contained in the reports required by section 4(c)(2) of this Act [section 2403(c)(2) of this Appendix], together with an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for articles, materials, or supplies subject to monitoring under this Act [sections 2401 to 2413 of this Appendix], (B) the worldwide supply of such articles, materials, and supplies, and (C) actions taken by other nations in response to such shortages or increased prices.

(2) Each such report shall also contain an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970 [7 U.S.C. 612c-3], (B) the worldwide supply of such commodities, and (C) actions being taken by other nations in response to such shortages or increased prices. The Secretary of Agriculture shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce in making such analysis.

(c) Each semiannual report shall include an accounting of—

(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act [section 2403(a) of this Appendix];

(2) any changes in the exercise of the authorities of section 4(b) of this Act [section 2403(b) of this Appendix];

(3) any delegations of authority under section 4(e) of this Act [section 2403(e) of this Appendix];

(4) the disposition of export license applications pursuant to sections 4(g) and (h) of this Act [sections 2403 (g) and (h) of this Appendix];

(5) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act [section 2404(c) of this Appendix];

(6) violations of the provisions of this Act [sections 2401 to 2413 of this Appendix] and penalties imposed pursuant to section 6 of this Act [section 2405 of this Appendix]; and

(7) a description of actions taken by the President and the Secretary of Commerce to effect the policies set forth in section 3(5) of this Act [section 2402(5) of this Appendix].

(As amended Pub. L. 95-52, title I, § 116(a), (b)(2), June 22, 1977, 91 Stat. 241, 242.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-52, § 116(b)(2)(A), (B), substituted "The report required for the first quarter of 1975 and every report thereafter" for "The quarterly report required for the first quarter of 1975 and every second report thereafter".

Subsec. (b)(2). Pub. L. 95-52, § 116(b)(2)(A), substituted "Each such report" for "Each such quarterly report".

Subsec. (c). Pub. L. 95-52, § 116(a), added subsec. (c).

SPECIAL REPORT ON MULTILATERAL EXPORT CONTROLS; SUBMISSION TO CONGRESS BY JUNE 22, 1978

Section 117 of Pub. L. 95-52 provided that:

"Not later than 12 months after the enactment of this section [June 22, 1977], the President shall submit to the Congress a special report on multilateral export controls in which the United States participates pursuant to the Export Administration Act of 1969 [sections 2401 to 2413 of this Appendix] and pursuant to the Mutual Defense Assistance Control Act of 1951 [section 1611 et seq. of Title 22, Foreign Relations and Intercourse]. The purpose of such special report shall be to assess the effectiveness of such multilateral export controls and to formulate specific proposals for increasing the effectiveness of such controls. That special report shall include—

"(1) the current list of commodities controlled for export by agreement of the group known as the coordinating Committee of the Consultative Group (hereafter in this section referred to as the 'Committee') and an analysis of the process of reviewing such list and of the changes which result from such review;

"(2) data on and analysis of requests for exceptions to such list;

"(3) a description and an analysis of the process by which decisions are made by the Committee on whether or not to grant such requests;

"(4) an analysis of the uniformity of interpretation and enforcement by the participating countries of the export controls agreed to by the Committee (including controls over the re-export of such commodities from countries not participating in the Committee), and information on each case where such participating countries have acted contrary to the United States interpretation of the policy of the Committee, including United States representations to such countries and the response of such countries;

"(5) an analysis of the problem of exports of advanced technology by countries not participating in the Committee, including such exports by subsidiaries or affiliates of United States businesses in such countries;

"(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

"(7) detailed recommendations for improving, through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2403, 2404, 2406 of this Appendix.

§ 2410. Definitions

As used in this Act [sections 2401 to 2413 of this Appendix]—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof; and

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(As amended Pub. L. 95-52, title II, § 204, June 22, 1977, 91 Stat. 247.)

AMENDMENTS

1977—Pub. L. 95-52 designated existing provisions as par. (1) and added par. (2).

§ 2411a. Authorization of appropriations

(a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act [sections 2401 to 2413 of this Appendix] for any fiscal year commencing on or after October 1, 1977, unless previously and specifically authorized by legislation.

(b) There is authorized to be appropriated to the Department of Commerce $14,033,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal years 1978 and 1979 to carry out the purposes of this Act [sections 2401 to 2413 of this Appendix].

(Pub. L. 91-184, § 13, as added Pub. L. 95-52, title I, § 102, June 22, 1977, 91 Stat. 235.)

§ 2412. Effective date

CODIFICATION

Section 13 of Pub. L. 91-184, Dec. 30, 1969, 83 Stat. 847, was renumbered section 14 by Pub. L. 95-52, title I, § 102, June 22, 1977, 91 Stat. 235.

§ 2413. Termination date

The authority granted by this Act [sections 2401 to 2413 of this Appendix] terminates on September 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.

(Pub. L. 91-184, § 15, formerly § 14, Dec. 30, 1969, 83 Stat. 847; Pub. L. 92-37, June 30, 1971, 85 Stat. 89; Pub. L. 92-150, Oct. 30, 1971, 85 Stat. 416; Pub. L. 92-284, Apr. 29, 1972, 86 Stat. 133; Pub. L. 92-412, title I, § 106, Aug. 29, 1972, 86 Stat. 646; Pub. L. 93-327, June 30, 1974, 88 Stat. 287; Pub. L. 93-372, Aug. 14, 1974, 88 Stat. 444; Pub. L. 93-500, § 13, Oct. 29, 1974, 88 Stat. 1557; renumbered and amended Pub. L. 95-52, title I, §§ 101, 102, June 22, 1977, 91 Stat. 235.)

AMENDMENTS

1977—Pub. L. 95-52, § 101, extended termination date from Sept. 30, 1976, to Sept. 30, 1979.

ACTS CITED BY POPULAR NAME

The references within the parentheses indicate the location, by title and section of the United States Code, or the Acts, or so much thereof as have been incorporated in the Code.

Accounting and Auditing Act of 1950
Oct. 7, 1977, Pub. L. 95-125, 91 Stat. 1104 (Title 31, § 67)

Adult Education Act of 1966
Pub. L. 95-112, § 3, Sept. 24, 1977, 91 Stat. 912 (Title 20, §§ 1208a, 1209, 1211, 1211a)

African Development Fund Act
Pub. L. 95-118, title VI, § 601, Oct. 3, 1977, 91 Stat. 1069 (Title 22, § 290g-10)

Age Discrimination Act of 1975
Pub. L. 95-65, § 1, July 11, 1977, 91 Stat. 269 (Title 42, § 6106)

Agricultural Act of 1949
Sept. 29, 1977, Pub. L. 95-113, title II, §§ 203, 204, title IV, §§ 401, 402, 407*l*, 408, title V, §§ 501, 502, title VI, §§ 602, 603, 604, 607, title VII, §§ 702, 704, 705, title VIII, § 807, title IX, §§ 901, 902, title X, §§ 1003, 1004, title XI, §§ 1101, 1102, 91 Stat. 920-944, 947, 949-953 (Title 7, §§ 1427, 1428, 1441, 1444, 1444c, 1446, 1446a, 1445b, 1445c, 1445d, 1445e, 1445f, 1447)

Agricultural Act of 1970
Pub. L. 95-113, title I, § 104, title II, §§ 201, 207, title X, § 1005, title XI, § 1103, title XV, § 1509, Sept. 29, 1977, 91 Stat. 919, 921, 951, 953, 1022 (Title 7, §§ 135b note, 608c note, 612c-3, 1307, 1427a; Title 16, § 1505)

Agricultural Adjustment Act of 1938
June 17, 1977, Pub. L. 95-48, 91 Stat. 229 (Title 7, § 1336)
Sept. 29, 1977, Pub. L. 95-113, title IV, § 405, title VI, § 605, title VIII, §§ 801-806, 91 Stat. 927, 940, 944-947 (Title 7, §§ 1358, 1358a, 1359, 1373, 1374, 1377, 1385)

Agricultural Marketing Act of 1946
Sept. 29, 1977, Pub. L. 95-113, title II, § 206, 91 Stat. 920 (Title 7, § 1622)

Agricultural Marketing Agreement Act of 1937
Sept. 29, 1977, Pub. L. 95-113, title X, § 1006, 91 Stat. 951 (Title 7, § 608e-1)

Agricultural Trade Development and Assistance Act of 1954
Aug. 3, 1977, Pub. L. 95-88, title II, §§ 201-213, 91 Stat. 545-551 (Title 7, §§ 1702, 1703, 1706, 1711-1714, 1721-1723, 1726-1727f, 1731, 1736b)
Sept. 29, 1977, Pub. L. 95-113, title XII, §§ 1201-1208, 91 Stat. 955-957 (Title 7, §§ 1702, 1715, 1724, 1731, 1732, 1733, 1736b, 1736c)

Agriculture and Consumer Protection Act of 1973
Pub. L. 95-113, title XIII, § 1302(a)(1), Sept. 29, 1977, 91 Stat. 979 (Title 7, §§ 613c note, 2012)

Agriculture and Related Agencies Appropriation Act, 1978
Pub. L. 95-97, Aug. 12, 1977, 91 Stat. 810 (Title 7, §§ 411b, 1623a, 2254; Title 15, § 713a-10; Title 16, §§ 590e-1, 590e-2; Title 21, § 129)

Alaska Native Claims Settlement Act
Pub. L. 95-178, §§ 1, 2, 4, Nov. 15, 1977, 91 Stat. 1369, 1370 (Title 43, §§ 1613, 1615, 1628)

American-Mexican Treaty Act of 1950
Aug. 17, 1977, Pub. L. 95-105, title V, § 514(c), 91 Stat. 862 (Title 22, § 277d-3)

Anderson-Price Atomic Energy Damages Act
See Atomic Energy Damages Act

Appalachian Regional Development Act of 1965
Pub. L. 95-193, § 1, Nov. 18, 1977, 91 Stat. 1412 (Title 40 App., § 202)

Armed Forces
July 30, 1977, Pub. L. 95-79, title III, § 302(a)(4), title IV, §§ 402(a), title VI, § 602, title VIII, § 803(a), 805, 811(b), 815(a), 91 Stat. 326, 328, 332, 333, 336, 337 (Title 10, §§ 555, 651, 2102, 2131-2135, 2390, 5231, 5232, 6485)
Aug. 1, 1977, Pub. L. 95-82, title V, §§ 504(a)(1), 505(a), title VI, §§ 608(a), 610, 612(a), 614, 91 Stat. 371, 377, 379, 380 (Title 10, §§ 2674, 2675, 2686, 2687)
Aug. 17, 1977, Pub. L. 95-105, title V, § 509(d)(3), 91 Stat. 860 (Title 10, § 280)
Oct. 21, 1977, Pub. L. 95-140, §§ 1-3(a), (b), 91 Stat. 1172, 1173 (Title 10, §§ 134, 135, 136, 171)
Oct. 28, 1977, Pub. L. 95-144, § 4, 91 Stat. 1221 (Title 10, § 955)

Arms Control and Disarmament Act
Pub. L. 95-108, §§ 2(a), 3-6, Aug. 17, 1977, 91 Stat. 871-873 (Title 22, §§ 2551 note, 2567, 2571, 2577, 2581, 2589)

Arms Control and Disarmament Act Amendments of 1977
Pub. L. 95-108, Aug. 17, 1977, 91 Stat. 871 (Title 5, § 5315; Title 22, §§ 2551 note, 2567, 2571, 2577, 2581, 2589)

Arms Export Control Act
Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320 (Title 22, §§ 2341 note, 2344, 2382, 2392, 2394, 2403, 2751-2754, 2761-2764, 2771-2777, 2791-2793)
Pub. L. 91-672, §§ 1-4, Jan. 12, 1971, 85 Stat. 2053 (Title 22, §§ 2751, 2753, 2771, 2773)
Pub. L. 95-92, §§ 7(d), 16-20, Aug. 4, 1977, 91 Stat. 617, 622, 623 (Title 22, §§ 2753, 2771, 2778, 2792)
Pub. L. 95-105, title I, § 109(a)(5), Aug. 17, 1977, 91 Stat. 846 (Title 22, § 2755)

Asian Development Bank Act
Pub. L. 95-118, title V, § 501, Oct. 3, 1977, 91 Stat. 1068 (Title 22, §§ 285s, 285t)

Atlantic Tunas Convention Act of 1975
Pub. L. 95-33, §§ 1, 2, May 26, 1977, 91 Stat. 173 (Title 16, §§ 971, 971h)

Atomic Energy Act of 1954
Sept. 20, 1977, Pub. L. 95-110, § 1, 91 Stat. 884 (Title 2, § 190j; Title 31, § 1302; Title 42, §§ 2251 note, 2258, 2259)
Dec. 13, 1977, Pub. L. 95-209, § 5, 91 Stat. 1483 (Title 42, § 2039)

Atomic Energy Damages Act
See, also, Atomic Energy Act of 1954
Pub. L. 85-256, Sept. 2, 1957, 71 Stat. 576 (Title 42, §§ 2012, 2014, 2039, 2073, 2210, 2232, 2239)

Bankhead-Jones Farm Tenant Act
Sept. 29, 1977, Pub. L. 95-113, title XV, §§ 1503, 1507, 91 Stat. 1021, 1022 (Title 7, § 1011)

Bank Holding Company Act of 1956
Nov. 16, 1977, Pub. L. 95-188, title III, §§ 301-303, 91 Stat. 1388-1390 (Title 12, §§ 1841, 1842, 1843, 1849)

Big Brothers-Big Sisters of America
Pub. L. 95-167, Nov. 11, 1977, 91 Stat. 1347 (Title 36, §§ 881, 883, 885, 887, 895, 896, 1101)

Biomedical Research Extension Act of 1977
Pub. L. 95-83, title II, Aug. 1, 1977, 91 Stat. 386 (Title 42, §§ 201 note, 280b, 286b-286d, 286f, 286g, 287c, 287d, 287f, 287h, 287i, 289*l*-1)

Bretton Woods Agreements Act
Oct. 3, 1977, Pub. L. 95-118, title II, § 201, 91 Stat. 1067 (Title 22, § 286e-1f)
Oct 26, 1977, Pub. L. 95-147, § 4(a), 91 Stat. 1228 (Title 22, §§ 286c, 286k)

Child Nutrition Act of 1966
Pub. L. 95-166, §§ 3, 4, 11, 12, 14, 15, 17, 18, 20, Nov. 10, 1977, 91 Stat. 1332, 1337, 1338-1346 (Title 42, §§ 1754, 1757, 1760, 1766, 1772, 1773, 1774, 1776, 1779, 1784, 1786, 1788)

Child Support Enforcement Act
See Federal Child Support Enforcement Act

Civil Rights Act of 1957
Pub. L. 95-132, § 2, Oct. 13, 1977, 91 Stat. 1157 (Title 42, § 1975e)

Civil Rights Commission Authorization Act of 1977
Pub. L. 95-132, §§ 1, 2, Oct. 13, 1977, 91 Stat. 1157 (Title 42, §§ 1975 note, 1975e)

Clean Air Act
July 14, 1955, ch. 360, 69 Stat. 322 (Title 42, §§ 7401-7642)
Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392 (Title 42, §§ 7401-7403, 7405, 7415, 7417, 7418, 7601, 7602, 7610, 7611, 7615, 7616)
Pub. L. 89-272, title I, Oct. 20, 1965, 79 Stat. 992 (Title 42, §§ 1857f-8, 7401-7403, 7405, 7415 7417, 7418, 7521-7524, 7542, 7550, 7601, 7602, 7610, 7611, 7615, 7616)
Pub. L. 89-675, §§ 2(a), 3, Oct. 15, 1966, 80 Stat. 954 (Title 42, §§7405, 7616)
Pub. L. 90-148, § 2, Nov. 21, 1967, 81 Stat. 485 (Title 42, §§ 1857f-6d, 7401-7407, 7415-7418, 7521-7525, 7542-7545, 7550, 7601, 7602, 7610-7616)
Pub. L. 91-137, Dec. 5, 1969, 83 Stat. 283 (Title 42, § 7404)
Pub. L. 91-604, §§ 2-11a, 12-15(a), (c), Dec. 31, 1970 84 Stat. 1676-1713 (Title 42, §§ 7403-7418, 7521-7525, 7541-7546, 7550, 7571-7574, 7601-7616, 7641, 7642)
Pub. L. 92-157, title III, § 302, Nov. 18, 1971, 85 Stat. 464 (Title 42, §§ 7411, 7413, 7545, 7607)
Pub. L. 93-15, § 1(a)-(c), Apr. 9, 1973, 87 Stat. 11 (Title 42, §§ 7404, 7546, 7616)
Pub. L. 93-319, §§ 3-6, 10, 13, June 22, 1974, 86 Stat. 248-259 261, 265 (Title 42, §§ 1857c-10, 7404, 7410, 7413, 7414, 7416, 7521, 7546, 7547, 7550, 7607, 7616)
Pub. L. 95-95, titles I-IV, Aug. 7, 1977, 91 Stat. 685-796 (Title 42, §§ 4362, 7401 notes, 7403, 7405, 7407-7415, 7417-7428, 7450-7459, 7470-7479, 7491, 7501-7508, 7521-7525, 7541, 7543, 7544, 7545, 7548, 7549, 7550, 7551, 7571, 7601-7605, 7607, 7612, 7613, 7616-7626)
Pub. L. 95-190, § 14(a), Nov. 16, 1977, 91 Stat. 1399-1404 (Title 42, §§ 7410, 7411, 7413, 7414, 7416, 7419, 7420, 7426, 7472, 7473, 7474, 7475, 7478, 7479, 7502, 7503, 7506, 7521, 7522, 7525, 7541, 7545, 7549, 7602, 7604, 7607, 7623, 7625e, 7626)

Clean Water Act
See Federal Water Pollution Control Act

Clean Air Act Amendments of 1977
Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685 (Title 15, § 792 note; Title 42, §§ 4362, 7401 notes, 7403, 7405, 7407-7415, 7417-7428, 7450-7459, 7470-7479, 7491, 7501-7508, 7521-7525, 7541, 7543, 7544, 7545, 7548, 7549, 7550, 7551, 7571, 7601-7605, 7607, 7612, 7613, 7616-7626)
Pub. L. 95-190, § 14(b), Nov. 16, 1977, 91 Stat. 1404, 1405 (Title 42, §§ 7401 note, 7413, 7502 note, 7521)

Clean Water Act of 1977
Pub. L. 95-217, Dec. 27, 1977, 91 Stat. 1566 (Title 33, §§ 1251, 1252, 1254, 1255, 1256, 1259, 1262, 1263, 1281-1288, 1291, 1292, 1294-1297, 1311, 1314, 1315, 1317-1319, 1321, 1322, 1323, 1324, 1328, 1341, 1342, 1344, 1345, 1362, 1364, 1375, 1376)

Coastal Zone Management Act Amendments of 1976
Pub. L. 95-219, § 3(a)(2), Dec. 28, 1977, 91 Stat. 1613 (Title 15, § 1511a)

Coast Guard
July 1, 1977, Pub. L. 95-61, § 4(1), 91 Stat. 259 (Title 14, § 659)

Coastwise Load Line Act, 1935
July 1, 1977, Pub. L. 95-61, § 7(c), 91 Stat. 260 (Title 46, § 88)

Commercial Fisheries Research and Development Act of 1964
Pub. L. 95-53, June 22, 1977, 91 Stat. 249 (Title 16, § 779b)

Commodity Credit Corporation Charter Act
Sept. 29, 1977, Pub. L. 95-113, title XI, § 1104, 91 Stat. 954 (Title 15, § 714b)

Community Emergency Drought Relief Act of 1977
Pub. L. 95-31, May 23, 1977, 91 Stat. 169 (Title 42, §§ 3121, 5184)

Community Mental Health Centers Act
Pub. L. 95-83, title III, § 308, Aug. 1, 1977, 91 Stat. 395 (Title 42, §§ 2689a-2689e, 2689h, 2689p, 2689q)

Community Reinvestment Act of 1977
Pub. L. 95-128, title VIII, Oct. 12, 1977, 91 Stat. 1147, 1148 (Title 12, §§ 2901-2905)

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970
Pub. L. 95-83, title III, § 311(a)(1), (2), (b), (c), Aug. 1, 1977, 91 Stat. 397, 398 (Title 42, §§ 4572, 4573, 4577)

Comprehensive Employment and Training Act of 1973
Pub. L. 95-40, § 1(28), June 3, 1977, 91 Stat. 207 (Title 29, §§ 817, 953)
Pub. L. 95-44, § 2, June 15, 1977, 91 Stat. 220 (Title 29, §§ 802, 961, 967)
Pub. L. 95-93, title I, § 101, title II, § 201, title III, §§ 302, 303, 306, 307, Aug. 5, 1977, 91 Stat. 627-652 (Title 29, §§ 802, 845, 872, 891, 892-892d, 893-893g, 894-894g, 895-895f, 962, 968, 981, 993-993i)

Comprehensive Employment and Training Act Amendments of 1977
Pub. L. 95-44, June 15, 1977, 91 Stat. 220 (Title 29, §§ 801 note, 802, 961, 967)

Congressional Budget and Impoundment Control Act of 1974
Pub. L. 95-110, § 1, Sept. 20, 1977, 91 Stat. 884 (Title 31, § 1302)

Congressional Operations Appropriation Act, 1978
Pub. L. 95-94, title I, Aug. 5, 1977, 91 Stat. 653 (Title 2, §§ 31a-1, 31b-5, 41 note, 58, 59, 59c, 60a note, 61-1, 61-1a, 61a-2, 61a-9a, 61b-1a, 61g-5, 61h-6, 68b, 69a, 72a-1e, 74-3 note, 74a-3, 74a-4, 84a-1, 122b, 130, 287-287d; Title 40, §§ 166a, 851; Title 44, § 103 note)

Consolidated Farm and Rural Development Act
Pub. L. 95-89, title IV, § 406, Aug. 4, 1977, 91 Stat. 561 (Title 7, § 1964)
Pub. L. 95-113, title XIV, § 1448, title XV, §§1503(b), 1510, Sept. 29, 1977, 91 Stat. 1011, 1012, 1022 (Title 7, §§ 1923, 1929, 1929a, 1932, 1942)

Consumer Credit Protection Act
Pub. L. 95-30, title V, § 501(e), May 23, 1977, 91 Stat. 161 (Title 15, §§ 1673, 1675)
Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 874-883 (Title 15, §§ 1601 note, 1692-1692o)

Controlled Substances Act
Pub. L. 95-137, § 1(a), Oct. 18, 1977, 91 Stat. 1169 (Title 21, § 904)

Copyrights
Aug. 5, 1977, Pub. L. 95-94, title IV, § 406, 91 Stat. 682 (Title 17, §§ 203, 708)

Council on Wage and Price Stability Act
Pub. L. 95-121, Oct. 6, 1977, 91 Stat. 1091 (Title 12, § 1904 note)

Crimes and Criminal Procedure
Aug. 3, 1977, Pub. L. 95-87, title VII, § 704, 91 Stat. 520 (Title 18, § 1114)
Oct. 3, 1977, Pub. L. 95-115, § 8, 91 Stat. 1060 (Title 18, §§ 4351, 5038)
Oct. 28, 1977, Pub. L. 95-144, § 1, 91 Stat. 1212-1220 (Title 18, §§ 4100-4115)
Nov. 16, 1977, Pub. L. 95-188, title II, § 205, 91 Stat. 1388 (Title 18, § 208)

Deepwater Port Act of 1974
Pub. L. 95-36, June 1, 1977, 91 Stat. 177 (Title 33, § 1524)

Defense Production Act of 1950
June 1, 1977, Pub. L. 95-37, § 2, 91 Stat. 178 (Title 50 App., § 2166)

Defense Production Act Extension Amendments of 1977
Pub. L. 95-37, June 1, 1977, 91 Stat. 178 (Title 50 App., §§ 2061 note, 2166)

Department of Commerce Appropriation Act, 1978
Pub. L. 95-86, title III, Aug. 2, 1977, 91 Stat. 429 (Title 33, § 851)

Department of Defense Appropriation Act, 1978
Pub. L. 95-111, Sept. 21, 1977, 91 Stat. 886 (Title 10, §§ 807 note, 858 note, 2103 note, 2304 note; Title 31, §§ 649a, 700, 700a; Title 40, § 483a; Title 50, § 100a)

Department of Defense Appropriation Authorization Act, 1976
Pub. L. 95-79, title VIII, § 814, July 30, 1977, 91 Stat. 337 (Title 10, § 133 note)

Department of Defense Appropriation Authorization Act, 1978
Pub. L. 95-79, July 30, 1977, 91 Stat. 323 (Title 10, §§ 131 note, 133 note, 555, 651, 2102, 2131-2135, 2203 notes, 2304 note,

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2390, 5231, 5232, 6485; Title 32, §§ 105, 708; Title 37, §§ 201, 203, 209, 308b; Title 50, § 1520; Title 50 App., § 462 note)

Department of Defense Supplemental Appropriation Authorization Act, 1978

Pub. L. 95-184, title II, § 203, Nov. 15, 1977, 91 Stat. 1382 (Title 10, § 2203 note)

Department of Energy Organization Act

Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565 (Title 3, § 19; Title 5, §§ 101, 5108, 5312-5316; Title 7, § 916; Title 12, § 1701z-8; Title 15, §§ 766, 790a, 790d, 2002; Title 42, §§ 2201 note, 2036, 5818, 6833, 6839, 7101, 7111-7113, 7131-7140, 7151-7159, 7171-7177, 7191-7195, 7211-7218, 7231-7235, 7251-7270, 7291-7301, 7321, 7322, 7341, 7342, 7351, 7352)

Department of Housing and Urban Development Act

Pub. L. 95-128, title IX, § 901, Oct. 12, 1977, 91 Stat. 1148 (Title 42, § 3533)

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1978

Pub. L. 95-119, Oct. 4, 1977, 91 Stat. 1073 (Title 12, § 1428a note; Title 36, §§ 121b, 122, 122a)

Department of the Interior and Related Agencies Appropriation Act, 1978

Pub. L. 95-74, July 26, 1977, 91 Stat. 285 (Title 43, § 50; Title 48, §§ 1401f, 1423*l*, 1470a, 1665, 1682, 1683, 1687)

Department of Justice Appropriation Act, 1978

Pub. L. 95-86, title II, Aug. 2, 1977, 91 Stat. 424 (Title 42, § 250a)

Department of Labor Appropriation Act, 1977

Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 74

Department of State Appropriation Act, 1978

Pub. L. 95-86, title I, Aug. 2, 1977, 91 Stat. 419 (Title 22, §§ 269a note, 269b note, 269f note, 269g-1 note, 269h note, 272a note, 273 note, 274 note, 275 note, 276 note, 277 note, 279a note, 280b note, 280i note, 280k note, 287e note, 287r note, 290b note, 1896b note, 1928 note, 1928b note, 2673 note)

Department of Transportation and Related Agencies Appropriation Act, 1977

Pub. L. 95-29, May 13, 1977, 91 Stat. 122

Department of Transportation and Related Agencies Appropriation Act, 1978

Pub. L. 95-85, Aug. 2, 1977, 91 Stat. 402 (Title 14, § 92 note; Title 20, § 241 note; Title 49, § 305a)

Departments of Labor and Health, Education, and Welfare Appropriation Act, 1977

Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 74

Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978

Pub. L. 95-86, Aug. 2, 1977, 91 Stat. 419 (Title 22, §§ 269a note, 269b note, 269f note, 269g-1 note, 269h note, 272a note, 273 note, 274 note, 275 note, 276 note, 277 note, 279a note, 280b note, 280i note, 280k note, 287e note, 287r note, 290b note, 1461b, 1896b note, 1928 note, 1928b note, 2673 note; Title 28, § 604 note; Title 33, § 851; Title 42, § 250a)

Disaster Relief Act of 1974

Pub. L. 95-51, § 1, June 20, 1977, 91 Stat. 233 (Title 42, § 5202)

District of Columbia Self-Government and Governmental Reorganization Act

Pub. L. 95-185, Nov. 15, 1977, 91 Stat. 1383
Pub. L. 95-218, Dec. 28, 1977, 91 Stat. 1612

District of Columbia Stadium Act of 1957

Pub. L. 85-300, Sept. 7, 1957, 71 Stat. 623
Pub. L. 95-185, Nov. 15, 1977, 91 Stat. 1383

Domestic and Foreign Investment Improved Disclosure Act of 1977

Pub. L. 95-213, title II, Dec. 19, 1977, 91 Stat. 1498 (Title 15, §§ 78a note, 78m, 78o)

Drug Abuse and Treatment Act of 1972

Pub. L. 95-83, title III, § 311(a)(3), (d), Aug. 1, 1977, 91 Stat. 397, 398 (Title 21, §§ 1112, 1176)

Earthquake Hazards Reduction Act of 1977

Pub. L. 95-124, Oct. 7, 1977, 91 Stat. 1098 (Title 42, §§ 7701, 7702, 7703, 7704, 7705, 7706)

Economic Stimulus Appropriations Act of 1977

Pub. L. 95-29, May 13, 1977, 91 Stat. 122

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Pub. L. 95-207, § 13(e), Dec. 13, 1977, 91 Stat. 1472 (Title 20, § 1865)

Education Amendments of 1976

Pub. L. 95-40, § 1(29), (30), (31)(A), June 3, 1977, 91 Stat. 207, 208 (Title 20, §§ 11 note, 2563)

Pub. L. 95-43, § 1(b), June 15, 1977, 91 Stat. 218, 219 (Title 20, §§ 1005, 1070c, 1071 note, 1085, 1119, 1119a, 1119a-1, 1132c-4, 1141, 2533)

Pub. L. 95-207, § 16, Dec. 13, 1977, 91 Stat. 1474 (Title 20, § 2502)

Education Amendments of 1977

Pub. L. 95-112, Sept. 24, 1977, 91 Stat. 911 (Title 20, §§ 241b, 241c-5, 241*l*, 441, 821, 824, 841, 844a, 847a, 861, 866, 867, 868, 887, 887a, 887d, 1208a, 1209, 1211, 1211a, 1225, 1801)

Education of the Handicapped Act

Pub. L. 95-49, §§ 2-6, June 17, 1977, 91 Stat. 230 (Title 20, §§ 1426, 1436, 1441, 1444, 1454)

Education of the Handicapped Amendments of 1977
Pub. L. 95-49, June 17, 1977, 91 Stat. 230 (Title 20, §§ 1401 note, 1426, 1436, 1441, 1444, 1454)

Elementary and Secondary Education Act of 1965
Pub. L. 95-112, § 2, Sept. 24, 1977, 91 Stat. 911, 912 (Title 20, §§ 241b, 241c-5, 241*l*, 821, 824, 841, 844a, 847a, 861, 866, 867, 868, 887, 887a, 887d, 1801)

Emergency Home Purchase Assistance Act of 1974
Pub. L. 95-128, title IV, § 407(e), Oct. 12, 1977, 91 Stat. 1138 (Title 12, § 1723e note)

Emergency Natural Gas Act of 1977
Pub. L. 95-2, §§ 1-14, Feb. 2, 1977, 91 Stat. 4-10 (Title 15, § 717 note)

Emergency Unemployment Compensation Act of 1974
Pub. L. 95-19, title I, §§101-105, 107, Apr. 12, 1977, 91 Stat. 39-43 (Title 26, § 3304 notes)

Emergency Unemployment Compensation Extension Act of 1977
Pub. L. 95-19, Apr. 12, 1977, 91 Stat. 39 (Title 2, §§ 359, 360; Title 26, §§ 3302, 3304, 3309)

Employee Retirement Income Security Act of 1974
Pub. L. 95-214, Dec. 19, 1977, 91 Stat. 1501, 1502 (Title 29, § 1381)

Endangered Species Act of 1973
Pub. L. 95-212, Dec. 19, 1977, 91 Stat. 1493 (Title 16, § 1535)

Energy Conservation and Protection Act
Pub. L. 95-70, § 5, July 21, 1977, 91 Stat. 277 (Title 42, § 6881)

Energy Conservation Standards for New Buildings of 1976
Pub. L. 95-91, title VII, § 709(e), Aug. 4, 1977, 91 Stat. 608 (Title 42, §§ 6833, 6839)

Energy Policy and Conservation Act
Pub. L. 95-70, §§ 3, 4, July 21, 1977, 91 Stat. 276, 277 (Title 42, §§ 6246, 6309)

Energy Reorganization Act of 1974
Pub. L. 95-39 title V, § 510, June 3, 1977, 91 Stat. 200 (Title 42, §§ 5813, 5818)
Pub. L. 95-209, §§ 2, 3, 4, Dec. 13, 1977, 91 Stat. 1482, 1483 (Title 42, §§ 5841, 5845, 5850)

Energy Research and Development Administration Authorization Act of 1977 and 1978—Military Applications
Pub. L. 95-183, Nov. 15, 1977, 91 Stat. 1375

Energy Supply and Environmental Coordination Act of 1974
Pub. L. 95-70, § 7, July 21, 1977, 91 Stat. 277 (Title 15, § 792)

Environmental Research, Development, and Demonstration Authorization Act of 1978
Pub. L. 95-155, Nov. 8, 1977, 91 Stat. 1258 (Title 42, §§ 300j-3a, 4361a, 4361b, 4363-4367)

Executive Office Appropriations Act, 1978
Pub. L. 95-81, title III, July 31, 1977, 91 Stat. 344

Export Administration Act of 1969
Pub. L. 95-52, title I, §§ 101-116, title II, §§ 201-204, June 22, 1977, 91 Stat. 235-247 (Title 50 App., §§ 2402, 2403, 2403-1a, 2403a, 2404 to 2407, 2409, 2410)
Pub. L. 95-223, title III, § 301, Dec. 28, 1977, 91 Stat. 1629 (Title 50 App., §§ 2403, 2405)

Export Administration Amendments of 1977
Pub. L. 95-52, June 22, 1977, 91 Stat. 235 (Title 50 App., §§ 2401 note, 2402, 2403, 2403-1a, 2403a, 2404 to 2407, 2409, 2410)

Export-Import Bank Act of 1945
Oct. 26, 1977, Pub. L. 95-143, §§ 1-4, 91 Stat. 1210, 1211 (Title 12, §§ 635, 635f)

Fair Debt Collection Practices Act
Pub. L. 95-109, title VIII, Sept. 20, 1977, 91 Stat. 874. (Title 15, §§ 1601 note, 1692-1692*o*)

Fair Labor Standards Act of 1938
Nov. 1, 1977, Pub. L. 95-151, §§ 2(a)-(d), 3-14, 91 Stat. 1245-1252 (Title 29, §§ 203, 206, 208, 213, 214, 216)

Fair Labor Standards Amendments of 1977
Pub. L. 95-151, Nov. 1, 1977, 91 Stat. 1245 (Title 29, §§ 201 note, 203, 204 note, 206, 208, 213, 214, 216)

Federal Aviation Act of 1958
Pub. L. 95-163 §§ 1(a), 2, 3, 4(a), 5, 6, 8(a), 9, 10, 12(a), 13, 14, 15(a), (b), 17(a), (b), 18, Nov. 9, 1977, 91 Stat. 1278-1288 (Title 49, §§ 1301, 1302, 1371, 1373, 1376, 1388, 1401, 1421, 1482, 1531-1533, 1535, 1537, 1542)

Federal Child Support Enforcement Act
Pub. L. 93-647, § 101(a), Jan. 4, 1975, 88 Stat. 2351-2358 (Title 42, §§ 651-660)
Pub. L. 94-88, title II, §§ 201(c), 205, 208(b), (c), Aug. 9, 1975, 89 Stat. 433, 435, 436 (Title 42, §§ 654, 655)
Pub. L. 94-365, § 3, July 14, 1976, 90 Stat. 990 (Title 42, §§ 655)
Pub. L. 95-30, title V, §§ 501, 502(a), 503(a), 504(a)(9), May 23, 1977, 91 Stat. 158, 159, 162, 163 (Title 42, §§ 652, 654, 658, 659, 661, 662)
Pub. L. 95-59, § 4, June 30, 1977, 91 Stat. 255 (Title 42, § 655)
Pub. L. 95-171 § 11, Nov. 12, 1977, 91 Stat. 1357 (Title 42, § 657)

Federal Coal Mine Health and Safety Act of 1969
Pub. L. 95-164, title I, § 102, title II, §§ 201, 202, 203, title III, § 303, Nov. 9, 1977, 91 Stat. 1290-1317, 1320, 1321 (Title 30, §§ 801-804, 812-825, 842, 861, 878, 951-959)

Federal Credit Union Act
Apr. 19, 1977, Pub. L. 95-22, title III, 91 Stat. 49-52 (Title 12, §§ 1752, 1757, 1761b, 1761c, 1762, 1763, 1766, 1781, 1786)
Oct. 26, 1977, Pub. L. 95-147, § 2(c), 91 Stat. 1227, 1228 (Title 12, §§ 1789a, 1790)

Federal Crop Insurance Act
June 16, 1977, Pub. L. 95-47, 91 Stat. 228 (Title 7, § 1504)
Nov. 15, 1977, Pub. L. 95-181, § 1, 91 Stat. 1373 (Title 7, § 1504)

Federal Election Campaign Act of 1971
Pub. L. 95-127, Oct. 12, 1977, 91 Stat. 1110 (Title 2, § 439c)
Pub. L. 95-216, title V, § 502(a), Dec. 20, 1977, 91 Stat. 1565 (Title 2, § 441i)

Federal Energy Administration Act of 1974
Pub. L. 95-70, §§ 2, 8-10, July 21, 1977, 91 Stat. 275, 277-280 (Title 15, §§ 761 note, 766, 788, 789)
Pub. L. 95-91, title VII, § 709(a)(2)-(4), Aug. 4, 1977, 91 Stat. 607, 608 (Title 15, §§ 766, 790a, 790d)

Federal Energy Administration Authorization Act of 1977
Pub. L. 95-70, July 21, 1977, 91 Stat. 275 (Title 15, §§ 761 notes, 766, 788, 789, 796; Title 42, §§ 6246, 6309, 6881)

Federal Food, Drug and Cosmetic Act
Nov. 23, 1977, Pub. L. 95-203, § 4(a)(1), (b)(1), (3), 91 Stat. 1452, 1453 (Title 21, §§ 321, 343)

Federal Home Loan Bank Act
Aug. 4, 1977, Pub. L. 95-90, §§ 1, 2, 91 Stat. 564 (Title 12, § 1437)
Oct. 12, 1977, Pub. L. 95-128, title IV, § 406, 91 Stat. 1137 (Title 12, § 1430)

Federal Legislative Salary Act of 1964
Pub. L. 95-94, title I, § 108(a), Aug. 5, 1977, 91 Stat. 661 (Title 2, § 61a-2)

Federal Mine Safety and Health Act of 1977
Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290 (Title 5, §§ 5314, 5315; Title 29, § 557a; Title 30, §§ 801-804, 811-823, 823a, 824, 825, 842, 861, 878, 951-955, 958, 959, 961; Title 31, § 11 note; Title 43, § 1456)

Federal Mine Safety and Health Amendments Act of 1977
Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290 (Title 5, §§ 5314, 5315; Title 29, § 557a; Title 30, §§ 801-804, 811-823, 823a, 824, 825, 842, 861, 878, 951-955, 958, 959, 961; Title 31, § 11 note; Title 43, § 1456)

Federal Nonnuclear Energy Research and Development Act of 1974
Pub. L. 95-39, title I, § 110, title IV, § 401, June 3, 1977, 91 Stat. 186, 190 (Title 42, §§ 5912, 5918)

Federal Program Information Act
Pub. L. 95-220, Dec. 28, 1977, 91 Stat. 1615 (Title 31, §§ 1701-1707)

Federal Reserve Act
Apr. 19, 1977, Pub. L. 95-22, title II, 91 Stat. 49 (Title 12, § 355)
Oct. 12, 1977, Pub. L. 95-128, title II, § 209, 91 Stat. 1131 (Title 12, § 355)
Nov. 7, 1977, Pub. L. 95-154, 91 Stat. 1256 (Title 12, § 355)
Nov. 16, 1977, Pub. L. 95-188, title II, §§ 202, 204, 91 Stat. 1387, 1388 (Title 12, §§ 242, 302)

Federal Reserve Reform Act of 1977
Pub. L. 95-188, title II, Nov. 16, 1977, 91 Stat. 1387, 1388 (Title 12, §§ 208, 225a, 226 note, 242, 302, 461 note)

Federal Salary Act Amendments of 1977
Pub. L. 95-19, title IV, Apr. 12, 1977, 91 Stat. 45 (Title 2, §§ 359, 360)

Federal Unemployment Tax Act (1954)
Dec. 20, 1977, Pub. L. 95-216, title IV, § 403(b), 91 Stat. 1561 (Title 26, § 3304)

Federal Water Pollution Control Act
Dec. 27, 1977, Pub. L. 95-217, §§ 2, 4-72, 91 Stat. 1566-1609 (Title 33, §§ 1251, 1252, 1254, 1255, 1256, 1259, 1262, 1263, 1281, 1282-1288, 1291, 1292 1294-1297, 1311, 1314, 1315, 1317-1319, 1321-1324, 1328, 1341, 1342, 1344, 1345, 1362, 1364, 1375, 1376)

Fishermen's Protective Act of 1967
Nov. 18, 1977, Pub. L. 95-194, §§ 1, 2, 91 Stat. 1413, 1414 (Title 22, §§ 1977, 1980)

Fishery Conservation and Management Act of 1976
Pub. L. 95-6, § 3, Feb. 21, 1976, 91 Stat. 15 (Title 16, § 1826)

Fishery Conservation Zone Transition Act
Pub. L. 95-6, Feb. 21, 1977, 91 Stat. 14 (Title 16, §§ 1801 note, 1823 note, 1826)
Pub. L. 95-8, §§ 1, 2, Mar. 3, 1977, 91 Stat. 18 (Title 16, § 1823 notes)
Pub. L. 95-73, July 26, 1977, 91 Stat. 283 (Title 16, § 1823 note)
Pub. L. 95-219, §§ 1, 2, Dec. 28, 1977, 91 Stat. 1613 (Title 16, § 1823 notes)

Flag and Seal, Seat of Government, and the States
July 19, 1977, Pub. L. 95-67, § 1(a), 91 Stat. 271 (Title 4, § 113)

Flood Control Acts
June 20, 1977, Pub. L. 95-51, § 2, 91 Stat. 233 (Title 33, § 701n)

Flood Disaster Protection Act of 1973
Pub. L. 95-128, title VII, § 703, Oct. 12, 1977, 91 Stat. 1144, 1145 (Title 42, §§ 4003, 4106)

Food and Agriculture Act of 1977
Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913 (Title 7, §§ 74 notes, 75, 75a, 76-79, 79a, 79b, 84, 87, 87a, 87b, 87e, 87f-1, 87f-2, 87h, 135b note, 341, 342, 343, 361c, 390, 390a, 390b, 390c-1, 427, 450i, 450j, 450l, 608c note, 608e-1, 612c notes, 612c-3, 1011, 1281 note, 1307, 1308, 1309, 1310, 1330 note, 1331 note, 1342 notes, 1352, 1353 note, 1358, 1358a, 1359, 1373, 1377, 1379d note, 1342e note, 1385, 1427, 1427a, 1428, 1431, 1441, 1444, 1444b notes, 1444c, 1445a notes, 1445b, 1445c, 1445d, 1445e, 1445f, 1446, 1446a, 1446d note, 1447, 1622, 1691 notes, 1702, 1715, 1724, 1731, 1732, 1733, 1736b, 1736c, 1781, 1782, 1923, 1929, 1929a, 1932, 1942, 2011, 2012-2027, 2201, 2204, 2266, 2267, 2281-2289, 2652, 2654, 2662,

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2663, 2667, 2669, 2670, 3101, 3102, 3103, 3121-3128, 3151-3154, 3171-3178, 3191-3201, 3221, 3222, 3241, 3251, 3252, 3261-3263, 3271, 3281, 3291, 3301-3304, 3311-3316, 3401-3417, 6651; Title 15, § 714b; Title 16, §§ 590h, 590o, 590q-3, 1002, 1005, 1006a, 1505)

Food Stamp Act of 1964

Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958-979 (Title 7, §§ 2011-2027)

Foreign Assistance Act of 1961

Pub. L. 95-21, Apr. 18, 1977, 91 Stat. 48 (Title 22, § 2292j)

Pub. L. 95-23, Apr. 30, 1977, 91 Stat. 54 (Title 22, § 2312)

Pub. L. 95-88, title I, §§ 101-124(a), 125-130, Aug. 3, 1977, 91 Stat. 533-543 (Title 22, §§ 2151 to 2151d, 2151g to 2151i, 2151k to 2151s, 2174, 2181 to 2183, 2222, 2225,2292a, 2292h, 2292k, 2357, 2370, 2384, 2385, 2386, 2399c, 2421, 2427, 2429b)

Pub. L. 95-92, §§ 2-8, 10-13, 22(d), Aug. 4, 1977, 91 Stat. 614-617, 619-621, 624 (Title 22, §§ 2261, 2291a, 2294, 2312, 2321h-2321j, 2346, 2347a, 2370, 2372, 2391, 2429, 2443)

Pub. L. 95-105, title I, § 109(a)(1)-(4), Aug. 17, 1977, 91 Stat. 846 (Title 22, §§ 2151n, 2304, 2314, 2384)

Foreign Assistance Act of 1969

Pub. L. 95-105, title V, § 508, Aug. 17, 1977, 91 Stat. 859 (Title 22, § 290f)

Foreign Assistance and Related Programs Appropriations Act, 1977

Pub. L. 95-26, title I, § 100, May 4, 1977, 91 Stat. 66

Foreign Assistance and Related Programs Appropriations Act, 1978

Pub. L. 95-148, Oct. 31, 1977, 91 Stat. 1232 (Title 22, §§ 252 note, 262c note, 262d-1, 1819 note)

Foreign Corrupt Practices Act of 1977

Pub. L. 95-213, title I, Dec. 19, 1977, 91 Stat. 1494-1498 (Title 15, §§ 78a note, 78m, 78dd-1, 78dd-2, 78ff)

Foreign Military Sales Act

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Foreign Relations Authorization Act, Fiscal Year 1977

Pub. L. 95-45, § 1, June 15, 1977, 91 Stat. 221

Foreign Relations Authorization Act, Fiscal Year 1978

Pub. L. 95-105, Aug. 17, 1977, 91 Stat. 844 (Title 5, §§ 5315, 5541, 7342; Title 8, §§ 101, 1104, 1105; Title 10, §§ 280, 1032; Title 22, §§ 277d-3, 277d-28, 277d-31, 290f, 292, 297, 867 note, 881, 889, 901, 910, 911, 914, 922, 961, 1004, note, 1041 note, 1071, 1076, 1199, 2151 note, 2151n-1, 2220 note, 2304, 2314, 2384, 2428a, 2652, 2679a, 2691-2694, 2755, 2871-2874, 2877; Title 37, § 801 note)

Foreign Service Act of 1946

Aug. 17, 1977, Pub. L. 95-105, title IV, §§ 401-409, 91 Stat. 852-854 (Title 22, §§ 881, 889, 901, 910, 911, 914, 922, 961, 1071, 1076)

Foreign Service Buildings Act, 1926

June 15, 1977, Pub. L. 95-45, § 3, 91 Stat. 221 (Title 22, § 295)

Aug. 17, 1977, Pub. L. 95-105, title I, § 106, 91 Stat. 845 (Title 22, §§ 292, 297)

General Education Provisions Act

Pub. L. 95-43, § 1(d), June 15, 1977, 91 Stat. 219 (Title 20, § 1233g)

Pub. L. 95-112, § 5, Sept. 24, 1977, 91 Stat. 912 (Title 20, § 1225)

General Provisions

June 15, 1977, Pub. L. 95-45, § 5, 91 Stat. 224 (Title 1, § 112b)

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Pub. L. 95-202, Nov. 23, 1977, 91 Stat. 1433 (Title 38, §§ 101, 106 note, 210, 246, 1501 note, 1504, 1662, 1663, 1673, 1674, 1677, 1682, 1682A, 1685, 1692, 1696, 1698, 1712, 1724, 1732, 1738, 1742, 1774, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1798, 1820 note, 2007, 2014, 3101 note)

Gold Reserve Act of 1934

Oct 26, 1977, Pub. L. 95-147, § 4(b), 91 Stat. 1229 (Title 31, § 822a)

Government Organization and Employees

Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 29-34 (Title 5, §§ 901-912)

Pub. L. 95-30, title IV, § 408(a), May 23, 1977, 91 Stat. 157 (Title 5, § 5520)

Pub. L. 95-88, title I, § 124(b), Aug. 3, 1977, 91 Stat. 542 (Title 5, § 5315)

Pub. L. 95-89, title II, § 209, Aug. 4, 1977, 91 Stat. 558 (Title 5, § 5316)

Pub. L. 95-91, title VII, § 710, Aug. 4, 1977, 91 Stat. 609 (Title 5, §§ 101, 5108, 5312, 5313, 5314, 5315, 5316)

Pub. L. 95-105, title I, § 109(d), title IV, § 412(a)(1), title V, § 515(a)(1), Aug. 17, 1977, 91 Stat. 847, 855, 862 (Title 5, §§ 5315, 5541, 7342)

Pub. L. 95-108, § 2(b), Aug. 17, 1977, 91 Stat. 871 (Title 5, § 5315)

Pub. L. 95-115, § 3(a)(6), Oct. 3, 1977, 91 Stat. 1049 (Title 5, § 5316)

Pub. L. 95-139, § 3, Oct. 19, 1977, 91 Stat. 1171 (Title 5, § 5314)

Pub. L. 95-140, § 3(d), Oct. 21, 1977, 91 Stat. 1173 (Title 5, §§ 5313, 5314)

Pub. L. 95-164, title III, § 302(b), (c), Nov. 9, 1977, 91 Stat. 1319, 1320 (Title 5, §§ 5314, 5315)

Pub. L. 95-173, § 9(b), Nov. 12, 1977, 91 Stat. 1360 (Title 5, § 5315)

Pub. L. 95-190, § 11(a), Nov. 16, 1977, 91 Stat. 1398 (Title 5, § 5108)

Pub. L. 95-219, § 3(b), (c), Dec. 28, 1977, 91 Stat. 1614 (Title 5, §§ 5108, 5316)

Guam Development Fund Act of 1968

Pub. L. 95-134, title II, § 202, Oct. 15, 1977, 91 Stat. 1161 (Title 48, § 1428)

Health Planning and Health Services Research and Statistics Extension Act of 1977

Pub. L. 95-83, title I, Aug. 1, 1977, 91 Stat. 383 (Title 42, §§ 201, 242m, 300e-8, 300k-3, 300*l* to 300*l*-5, 300m, 300m-2 to 300m-5, 300o-1 to 300o-3, 300p, 300p-3, 300q, 300q-2, 300r, 300s-3, 300t, 1396b)

Health Professions Educational Assistance Act of 1976

Pub. L. 95-83, title III, § 307(p)(1), (q)(3), Aug. 1, 1977, 91 Stat. 394, 395 (Title 8, §§ 1101, 1182 note; Title 42, § 294t note)

Health Services Extension Act of 1977

Pub. L. 95-83, title III, Aug. 1, 1977, 91 Stat. 387 (Title 8, §§ 1101, 1182; Title 21, §§ 1112, 1176; Title 25, § 1614; Title 42, §§ 201 note, 210, 242b note, 242*l* note, 246, 247d, 254c, 289k-2 note, 292g, 292h, 293a, 294d, 294e, 294h, 294i, 294j, 294n, 294r, 294t note, 294w, 294y-1, 294z, 295f-1, 295g-1, 295g-9, 295h-5, 296e, 296m, 297, 300, 300a-1 to 300a-3, 300c-11, 300c-21, 300c-22, 701, 1395x notes, 1396b note, 2689a-2689e, 2689h, 2689p, 2689q, 4572, 4573, 4577)

Higher Education Act of 1965

Pub. L. 95-43, § 1(a), June 15, 1977, 91 Stat. 213-218 (Title 20, §§ 1003, 1004, 1005, 1015b, 1070a, 1070c-2, 1070c-4, 1071, 1972, 1073, 1075, 1077, 1078, 1078-1, 1080, 1083, 1085, 1087-1, 1087-2, 1087dd, 1088b, 1088f-1, 1119a-1, 1132d-11, 1132e)

Pub. L. 95-180, § 1(a)-(c), Nov. 15, 1977, 91 Stat. 1372 (Title 20, §§ 1088, 1122, 1135, 1135a-1, 1141)

Home Owners' Loan Act of 1933

Oct. 12, 1977, Pub. L. 95-128, title IV, §§ 401-405, 91 Stat. 1136, 1137 (Title 12, § 1464)

Oct. 26, 1977, Pub. L. 95-147, § 2(a), 91 Stat. 1227 (Title 12, § 1464)

Housing Act of 1949

Apr. 30, 1977, Pub. L. 95-24, title I, § 105(a), 91 Stat. 56 (Title 42, § 1451)

June 30, 1977, Pub. L. 95-60, § 4, 91 Stat. 258 (Title 42, §§ 1483, 1485, 1487, 1490c)

July 31, 1977, Pub. L. 95-80, § 4, 91 Stat. 340 (Title 42, §§ 1483, 1485, 1487, 1490c)

Oct. 12, 1977, Pub. L. 95-128, title V, §§ 501-512, 91 Stat. 1138-1142 (Title 42, §§ 1471, 1472, 1476, 1479, 1483, 1484, 1485, 1487, 1490a, 1490c, 1490h)

Housing Act of 1954

Oct. 12, 1977, Pub. L. 95-128, title I, § 112, 91 Stat. 1127 (Title 40, § 461)

Housing Act of 1959

Pub. L. 95-128, title II, § 202, Oct. 12, 1977, 91 Stat. 1129 (Title 12, § 1701q)

Housing Act of 1964

Pub. L. 95-128, title I, §§ 111, 112, Oct. 12, 1977, 91 Stat. 1127 (Title 40, § 461; Title 42, § 1452b)

Housing and Community Development Act of 1974

Pub. L. 95-24, title I, § 103, Apr. 30, 1977, 91 Stat. 55 (Title 12, § 1706e)

Pub. L. 95-128, title I, §§ 101-110, title II, §§ 203, 207, title IX, § 902, Oct. 12, 1977, 91 Stat. 1111-1127, 1129, 1130 (Title 12, § 1706e; Title 31, § 711; Title 42, §§ 1439, 5301-5308, 5313, 5318, 5403, 5409)

Housing and Community Development Act of 1977

Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1111 (Title 12, §§ 355, 1430, 1454, 1464, 1701q, 1701x, 1701z-1, 1703, 1706e, 1709, 1709-1, 1715h, 1715k, 1715*l*, 1715m, 1715w, 1715y, 1715z, 1715z-1, 1715z-3, 1715z-7, 1715z-9, 1715z-10, 1717, 1723a, 1723e, 1748h-1, 1748h-2, 1749bb, 1749aaa, 2901 to 2906; Title 31, § 711; Title 40, § 461; Title 42, §§ 1421b note, 1437c, 1437d note, 1437f, 1437g, 1439, 1452b, 1471, 1472, 1476, 1479, 1483, 1484, 1485, 1487, 1490a, 1490c, 1490h, 3533, 3540, 4003, 4013, 4026, 4056, 4103-4106, 4127, 4501-4503, 4521, 5301-5308, 5313, 5318, 5403, 5409)

Housing and Urban Development Act of 1968

Pub. L. 95-128, title IX, § 903, Oct. 12, 1977, 91 Stat. 1149 (Title 12, § 1701x)

Housing and Urban Development Act of 1970

Pub. L. 95-91, title VII, § 709(d), Aug. 4, 1977, 91 Stat. 608 (Title 12, § 1701z-8)

Pub. L. 95-128, title II, §§ 204, 208, Oct. 12, 1977, 91 Stat. 1129, 1130 (Title 12, § 1701z-1; Title 42, § 4521)

Hovering Vessels

Aug. 5, 1935, ch. 438, title II, §§ 201-210, title IV, §§ 401-403, 49 Stat. 521-529 (Title 19, §§ 1401, 1432a, 1436, 1455, 1581, 1584, 1586, 1587, 1615, 1709; Title 46, § 91)

Immigration and Nationality Act

Aug. 1, 1977, Pub. L. 95-83, title III, § 307(q), 91 Stat. 394 (Title 8, §§ 1101, 1182)

Aug. 17, 1977, Pub. L. 95-105, title I, § 109(b)(1)-(3), 91 Stat. 847 (Title 8, §§ 1101, 1104, 1105)

Independent Agencies Appropriations Act, 1978

Pub. L. 95-81, title IV, July 31, 1977, 91 Stat. 346 (Title 26, § 7443 note; Title 33, § 776)

Indian Claims Commission

July 20, 1977, Pub. L. 95-69, § 2, 91 Stat. 273 (Title 25, § 70v-3)

Indian Financing Act of 1974

Pub. L. 95-68, July 20, 1977, 91 Stat. 272 (Title 25, § 1523)

Indian Health Care Improvement Act

Pub. L. 95-83, title III, § 307(n)(2), Aug. 1, 1977, 91 Stat. 393 (Title 25, § 1614)

Indochina Migration and Refugee Assistance Act of 1975

Pub L. 95-145, title II, §§ 201, 202, Oct. 28, 1977, 91 Stat. 1224, 1225 (Title 22, § 2601 note)

Intergovernmental Anti-recession Assistance Act of 1977

Pub L. 95-30, title VI, May 23, 1977, 91 Stat. 164 (Title 42, §§ 6721 note, 6722, 6723, 6724, 6727, 6735, 6736)

Internal Revenue Code of 1954

Apr. 12, 1977, Pub L. 95-19, title II, title III, § 302, 91 Stat. 43, 45 (Title 26, §§ 3302, 3304, 3309)

May 23, 1977, Pub. L. 95-30, title I, §§ 101, 102, 104, 105, title II, §§ 201, 202, title III, §§ 306, 308, 309, title IV, §§ 401, 402, 405, 407, 91 Stat. 126-156 (Title 26, §§ 1, 3, 11, 21, 36, 37 note, 42, 43 note, 44B, 56, 57, 63, 105 notes, 141 to 145, 161, 170, 172, 188, 211, 280A, 280C, 381, 383, 402, 441, 443, 511, 584, 602 note, 603 note, 613A, 635 note, 641, 642, 667, 703, 821, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 3402, 6012, 6014, 6096, 6212, 6411, 6501, 7651 note)

Oct. 26, 1977, Pub. L 95-147, § 3(a), (b), 91 Stat. 1228 (Title 26, §§ 6302, 7502)

Nov. 12, 1977, Pub. L. 95-171, §§ 1(e), 2(a), 4(a), 10(a), 91 Stat. 1353, 1355, 1356 (Title 26, §§ 50B, 167, 3304, 3506)

Nov. 12, 1977, Pub. L. 95-172, § 2(a), 91 Stat. 1358 (Title 26, § 4254)

Nov. 14, 1977, Pub. L. 95-176, §§ 1-6, 91 Stat. 1363-1367 (Title 26, §§ 5003, 5004, 5005, 5008, 5025, 5062, 5066, 5175, 5178, 5205, 5207, 5214, 5215, 5234)

Dec. 13, 1977, Pub. L. 95-210, § 5, 91 Stat. 1491 (Title 26, § 6103)

Dec. 20, 1977, Pub. L. 95-216, title I, § 101, title III, §§ 312(a), (b), (d), (f), (g), 313(b), 314(a), (b), 315, 317(b)(1)-(3), 355, 356, title IV, § 403(b), 91 Stat. 1510, 1532, 1536, 1537, 1555, 1561 (Title 26, §§ 1401, 1402, 3101, 3102, 3111, 3121, 3304, 3306, 6051)

Internal Security Act of 1950

Oct. 21, 1977, Pub. L. 95-150, § 3(c), 91 Stat. 1172 (Title 50, § 833)

International Broadcasting Act of 1973

Pub. L. 95-105, title III, §§ 301, 302, Aug. 17, 1977, 91 Stat. 851 (Title 22, §§ 2871, 2872, 2873)

International Development and Food Assistance Act of 1977

Pub. L. 95-88, Aug. 3, 1977, 91 Stat. 533 (Title 5, § 5315; Title 7, §§ 1702, 1703, 1706, 1708 note, 1711-1714, 1721-1723, 1726-1727f, 1731, 1736b; Title 22, §§ 2151, 2151a-2151d, 2151h, 2151i, 2151k-2151s, 2174, 2181, 2182, 2182a, 2183, 2222, 2225, 2292a, 2292h, 2292k, 2357, 2370, 2384, 2385, 2386, 2399c, 2421, 2427, 2429b)

International Development Association Act

Pub. L. 95-118, title IV, § 401, Oct. 3, 1977, 91 Stat. 1068 (Title 22, § 284n)

International Emergency Economic Powers Act

Pub. L. 95-223, title II, Dec. 28, 1977, 91 Stat. 1626 (Title 50, §§ 1701-1706)

International Finance Corporation Act

Oct. 3, 1977, Pub. L. 95-118, title III, § 301, 91 Stat. 1068 (Title 22, § 282i)

International Navigational Rules Act of 1977

Pub. L. 95-75, July 27, 1977, 91 Stat. 308 (Title 33, §§ 1051-1094, 1601-1608)

International Safe Container Act

Pub. L. 95-208, Dec. 13, 1977, 91 Stat. 1475 (Title 46, §§ 1501-1508)

International Security Assistance Act of 1977

Pub. L. 95-92, Aug. 4, 1977, 91 Stat. 614 (Title 22, §§ 2151 notes, 2261, 2291a, 2294, 2312, 2321h-2321j, 2346, 2346a, 2346b, 2347a, 2370, 2372, 2391, 2406 note, 2429, 2429a, 2431 note, 2443, 2753, 2771, 2778)

John F. Kennedy Center Act

Pub. L. 95-50, June 20, 1977, 91 Stat. 232 (Title 20, §§ 76*l*, 76n)

Judiciary and Judicial Procedure

July 11, 1977, Pub. L. 95-64, 91 Stat. 268 (Title 28, § 2415)

July 20, 1977, Pub. L. 95-69, § 3, 91 Stat. 274 (Title 28, § 792)

July 30, 1977, Pub. L. 95-78, § 3, 91 Stat. 321 (Title 28, § 1446)

Aug. 15, 1977, Pub. L. 95-103, 91 Stat. 842 (Title 28, § 2415)

Oct. 19, 1977, Pub. L. 95-139, §§ 1(a), 2, 91 Stat. 1171 (Title 28, §§ 504a, 508)

Oct. 28, 1977, Pub. L. 95-144, §§ 2, 3, 91 Stat. 1220 (Title 28, §§ 636, 2256)

Nov. 19, 1977, Pub. L. 95-196, 91 Stat. 1420 (Title 28, § 142)

Judiciary Appropriation Act, 1978

Pub. L. 95-86, title IV, Aug. 2, 1977, 91 Stat. 434 (Title 28, § 604 note)

Juvenile Justice Amendments of 1977

Pub. L. 95-115, Oct. 3, 1977, 91 Stat. 1048 (Title 5, § 5316; Title 18, §§ 4351, 5038; Title 42, §§ 3723, 3767, 3811-3814, 3821, 3882, 3883, 3888, 3889, 5601 notes, 5603, 5611, 5612, 5614-5618, 5631-5635, 5637-5639, 5651, 5653-5661, 5671, 5672, 5711, 5712, 5713, 5732, 5741, 5751)

Juvenile Justice and Delinquency Prevention Act of 1974

Pub. L. 95-115, §§ 2, 3(a)(1)-(5), (b)-(f), 4-7, Oct. 3, 1977, 91 Stat. 1048-1060 (Title 42, §§ 5603, 5611, 5612, 5614-5618, 5631-5635, 5637-5639, 5651, 5653-5661, 5671, 5672, 5711, 5712, 5713, 5732, 5741, 5751)

Legal Services Corporation Act

Pub. L. 95-222, §§ 2-16, Dec. 28, 1977, 91 Stat. 1619-1624 (Title 42, §§ 2996, 2996c, 2996e, 2996f, 2996g, 2996h, 2996i, 2996j)

Legal Services Corporation Act Amendments of 1977

Pub. L. 95-222, Dec. 28, 1977, 91 Stat. 1619 (Title 42, §§ 2701 note, 2996, 2996c, 2996e, 2996f, 2996g, 2996h, 2996i, 2996j)

Legislative Branch Appropriations Act, 1957

Aug. 5, 1977, Pub. L. 95-94, title I, § 112(e), 91 Stat. 664 (Title 2, § 68b)

Legislative Branch Appropriation Act, 1959

Pub. L. 95-26, title I, § 104, May 4, 1977, 91 Stat. 82 (Title 2, § 65b)

Legislative Branch Appropriation Act, 1968

Pub. L. 95-94, title I, § 111(d), Aug. 5, 1977, 91 Stat. 663 (Title 2, § 61-1)

Legislative Branch Appropriation Act, 1975
Pub. L. 95-26, title I § 105, May 4, 1977, 91 Stat. 83 (Title 2, § 59)
Pub. L. 95-94, title I, § 112(d), Aug. 5, 1977 91 Stat. 664 (Title 2, § 59)

Legislative Branch Appropriation Act, 1976
Pub. L. 95-26, title I, § 102, May 4, 1977, 91 Stat. 82 (Title 2, § 61g)
Pub. L. 95-94, title I, § 106, Aug. 5, 1977, 91 Stat. 661 (Title 2, § 61a-9a)

Legislative Branch Appropriation Act, 1977
Pub. L. 95-26, title I, § 107(a), May 4, 1977, 91 Stat. 85 (Title 2, § 121a)

Legislative Branch Appropriation Act, 1978
Pub. L. 95-94, Aug. 5, 1977, 91 Stat. 653 (Title 2, §§ 31a-1, 31b-5, 41 note, 58, 59, 59c, 60a note, 61-1, 61-1a, 61a-2, 61a-9a, 61b-1a, 61g-5, 61h-6, 68b, 69a, 72a-1e, 74-3 note, 74a-3, 74a-4, 84a-1, 122b, 130, 142e, 143a, 150, 169, 287-287d; Title 17, §§ 203, 708, 805 note; Title 40, §§ 166 note, 166a, 851; Title 44, §§ 103 note, 721, 906, 1509, 1708)

Legislative Reorganization Act of 1970
Pub. L. 95-94, title I, § 116, Aug. 5, 1977, 91 Stat. 671 (Title 40, § 851)
Pub. L. 95-110, § 1, Sept. 20, 1977, 91 Stat. 884 (Title 2, § 190j)

Library Services and Construction Act
Pub. L. 95-123, §§ 2-6, Oct. 7, 1977, 91 Stat. 1095-1097 (Title 20, §§ 351, 351a, 351b, 351f, 352, 353, 354, 355b)

Library Services and Construction Act Amendments of 1977
Pub. L. 95-123, Oct. 7, 1977, 91 Stat. 1095 (Title 20, §§ 351, 351a, 351b, 351f, 352, 353, 354, 355b)

Local Public Works Capital Development and Investment Act of 1976
Pub. L. 95-28, title I, §§ 101-109, May 13, 1977, 91 Stat. 116-119 (Title 42, §§ 6701, 6705, 6706, 6707, 6708, 6710)

Marine Mammal Protection Act of 1972
Pub. L. 95-136, §§ 1-4, Oct. 18, 1977, 91 Stat. 1167 (Title 16, §§ 1372, 1380, 1384, 1407)

Marine Protection, Research, and Sanctuaries Act of 1972
Pub. L. 95-153, §§ 1-3, Nov. 4, 1977, 91 Stat. 1255 (Title 16, § 1434; Title 33, §§ 1420, 1444

Maritime Academy Act of 1958
Pub. L. 95-173, §§ 4, 5, Nov. 12, 1977, 91 Stat. 1359 (Title 46, §§ 1383, 1385)

Maritime Appropriation Authorization Act for Fiscal Year 1978
Pub. L. 95-173, Nov. 12, 1977, 91 Stat. 1359 (Title 5, § 5315; Title 15, § 1507b; Title 46, §§ 1119, 1126, 1159, 1383, 1385)

Medicare-Medicaid Anti-Fraud and Abuse Amendments
Pub. L. 95-142, Oct. 25, 1977, 91 Stat. 1175 (Title 42, §§ 254e, 1301, 1305 note, 1320a, 1320a-3 to 1320a-5, 1320c-1, 1320c-3, 1320c-4, 1320c-6, 1320c-7, 1320c-9, 1320c-12, 1320c-15 to 1320c-17, 1320c-20 to 1320c-22, 1395f, 1395g, 1395h, 1395*l*, 1395u, 1395x, 1395y, 1395cc, 1395*ll* notes, 1395nn, 1396a, 1396b, 1396b-1, 1396h, 1396k, 1397a, 1397b, 3524)

Merchant Marine Act, 1936
Nov. 12, 1977, Pub. L. 95-173, §§ 6(a), 7, 8, 91 Stat. 1360 (Title 46, §§ 1119, 1126, 1159)
Nov. 15, 1977, Pub. L. 95-177, 91 Stat. 1368 (Title 46, § 1160)

Military Construction Appropriation Act, 1978
Pub. L. 95-101, Aug. 15, 1977, 91 Stat. 837 (Title 31, §§ 638f, 700b)

Military Construction Authorization Act, 1978
Pub. L. 95-82, Aug. 1, 1977, 91 Stat. 358 (Title 10, §§ 2665, 2674, 2675, 2685, 2686, 2687)

Montana Wilderness Study Act of 1977
Pub. L. 95-150, Nov. 1, 1977, 91 Stat. 1243 (Title 16, § 1132 note)

Motor Vehicle Information and Cost Savings Act
Pub. L. 95-91, title III, § 305, Aug. 4, 1977, 91 Stat. 580 (Title 15, § 2002)

Mutual Security Appropriation Acts
Oct. 31, 1977, Pub. L. 95-148, Title I, § 100, 91 Stat. 1232 (Title 22, § 1819 note)

National Advisory Committee on Oceans and Atmosphere Act of 1977
Pub. L. 95-63, §§ 2-6, 8, July 5, 1977, 91 Stat. 265 (Title 33, §§ 857-13 to 857-18)

National Aeronautics and Space Administration Authorization Act, 1978
Pub. L. 95-76, July 30, 1977, 91 Stat. 312 (Title 42, §§ 2459 note, 2463)

National Agricultural Research, Extension, and Teaching Policy Act of 1977
Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981 (Title 7, §§ 341, 342, 343, 361c, 390-390i, 427, 450i, 1923, 1942, 2662, 2663, 2667, 2669, 2670, 3101-3103, 3121, 3122, 3128, 3151-3154, 3171-3178, 3191-3201, 3221, 3222, 3241, 3251, 3252, 3262, 3263, 3271, 3281, 3282, 3291, 3301-3304, 3311-3316)

National Defense Education Act of 1958
Pub. L. 95-43, § 1(c), June 15, 1977, 91 Stat. 219 (Title 20, § 513)
Pub. L. 95-112, § 4, Sept. 24, 1977, 91 Stat. 912 (Title 20, § 441)

National Emergency Act
Pub. L. 95-223, title I, § 101(d), Dec. 28, 1977, 91 Stat. 1625 (Title 50, § 1651)

National Energy Extension Service Act
Pub. L. 95-39, title V, June 3, 1977, 91 Stat. 191-202 (Title 42, §§ 5813, 5818, 7001 to 7011)

National Flood Insurance Act of 1968
Pub. L. 95-60, § 3, June 30, 1977, 91 Stat. 257 (Title 42, § 4026)

National Flood Insurance Act of 1968—Continued

Pub. L. 95-80, § 3, July 31, 1977, 91 Stat. 339 (Title 42, § 4026)

Pub. L. 95-128, title VII, §§ 701, 702, 704, Oct. 12, 1977, 91 Stat. 1144-1146 (Title 42, §§ 4013, 4026, 4056, 4103, 4104, 4105, 4127)

National Guard

July 30, 1977, Pub. L. 95-79, title VIII, § 804, 91 Stat. 333 (Title 32, §§ 105, 708)

National Housing Act

Apr. 30, 1977, Pub. L. 95-24, title I, §§ 102, 104, 105(b), 106, 91 Stat. 55, 56 (Title 12, §§ 1715k, 1715*l*, 1735c, 1749bbb, 1749bbb-8)

June 30, 1977, Pub. L. 95-60, § 1, 91 Stat. 257 (Title 12, §§ 1703, 1715h, 1715*l*, 1715z-9, 1748h-1, 1748h-2, 1749bb, 1749aaa)

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Oct. 12, 1977, Pub. L. 95-128, title II, §§ 205, 206, title III, §§ 301, 303-310, title IV, §§ 407(a)-(d), 408, 91 Stat. 1130-1138 (Title 12, §§ 1454, 1703, 1709, 1709-1, 1715h, 1715k, 1715*l*, 1715m, 1715w, 1715y, 1715z, 1715z-1, 1715z-3, 1715z-7, 1715z-9, 1715z-10, 1717, 1723a, 1723e, 1748h-1, 1748h-2, 1749bb, 1749aaa)

Oct. 26, 1977, Pub. L. 95-147, § 2(b), 91 Stat. 1227 (Title 12, § 1725)

National Neighborhood Policy Act

Pub. L. 95-24, title II, Apr. 30, 1977, 91 Stat. 56 (Title 42, § 1441 note)

National Research Act

Pub. L. 95-203, § 5, Nov. 23, 1977, 91 Stat. 1454 (Title 42, §§ 218 note, 289*l*-1 note)

National School Lunch Act

Nov. 10, 1977, Pub. L. 95-166, §§ 2, 3, 5-10, 13, 16, 19, 91 Stat. 1325-1336, 1338, 1344, 1345 (Title 42, §§ 1754-1758, 1759a, 1760, 1761, 1762a, 1763, 1766, 1769, 1769a, 1774)

National School Lunch Act and Child Nutrition Amendments of 1977

Pub. L. 95-166, Nov. 10, 1977, 91 Stat. 1325 (Title 42, §§ 1751 note, 1754-1758, 1759a, 1760, 1761, 1762a, 1763, 1766, 1769, 1769a, 1772-1774, 1776, 1779, 1784, 1786, 1788)

National Science and Technology Policy, Organization and Priorities Act of 1976

Pub. L. 95-113, title XIV, § 1406, Sept. 29, 1977, 91 Stat. 986 (Title 7, § 6651)

National Science Foundation Act of 1950

Aug. 15, 1977, Pub. L. 95-99, § 14, 91 Stat. 835 (Title 42, §§ 1862, 1863, 1873)

National Science Foundation Authorization Act, Fiscal Year 1978

Pub. L. 95-99, Aug. 15, 1977, 91 Stat. 831 (Title 42, §§ 1861 note, 1862, 1863, 1869b, 1873, 1873a, 1882, 1884)

National Urban Policy and New Community Development Act of 1970

Pub. L. 95-128, title VI, Oct. 12, 1977, 91 Stat. 1143, 1144 (Title 42, §§ 4501 note, 4502, 4503)

National Wool Act of 1954

Sept. 29, 1977, Pub. L. 95-113, title III, §§ 301, 302, 91 Stat. 921 (Title 7, §§ 1781, 1782)

Older Americans Act of 1965

Pub. L. 95-65, § 2, July 11, 1977, 91 Stat. 269 (Title 42, § 3045f)

Omnibus Crime Control and Safe Streets Act of 1968

Pub. L. 95-115, § 9, Oct. 3, 1977, 91 Stat. 1060, 1061 (Title 42, §§ 3723, 3767)

Organic Act of Guam

Oct. 15, 1977, Pub. L. 95-134, title II, § 203(a), 91 Stat. 1161 (Title 48, § 1422d)

Pay and Allowances of Uniformed Services

Pub. L. 95-79, title III, § 302(1)-(3), title IV, § 403(a)(1), July 30, 1977, 91 Stat. 326, 330 (Title 37, §§ 201, 203, 209, 308b)

Pub. L. 95-114, §§ 2, 3, Sept. 30, 1977, 91 Stat. 1046 (Title 37, §§ 302a, 303)

Peace Corps Act

Pub. L. 95-103, §§ 1, 2, Aug. 15, 1977, 91 Stat. 841 (Title 22, § 2502)

Postal Revenue and Federal Salary Act of 1967

Pub. L. 95-19, title IV, Apr. 12, 1977, 91 Stat. 45 (Title 2, §§ 359, 360)

Postal Service Appropriation Act, 1978

Pub. L. 95-81, title II, July 31, 1977, 91 Stat. 343

The President

Aug. 4, 1977, Pub. L. 95-91, title VII, § 709(g), 91 Stat. 609 (Title 3, § 19)

Nov. 15, 1977, Pub. L. 95-179, 91 Stat. 1371 (Title 3, §§ 202-204, 206, 207)

Price-Anderson Act

See Atomic Energy Damages Act

Privacy Act of 1974

Pub. L. 95-38, June 1, 1977, 91 Stat. 179 (Title 5, § 552a note)

Public Health Service Act

Aug. 1, 1977, Pub. L. 95-83, title I, §§ 102-104, 105(b), 106, 107, title III, §§ 303-306, 307(a)-(m), (o), (r), 312, 91 Stat. 383-386, 388-390, 395, 398 (Title 42, §§ 201, 210, 242m, 247d, 254c, 292g, 292h, 293a, 294d, 294e, 294h, 294i, 294j, 294n, 294r, 294s, 294w, 294z, 295f-1, 295g-1, 295g-9, 295h-5, 296e, 296m, 297, 300, 300a-1, 300a-2, 300a-3, 300c-11, 300c-21, 300c-22, 300e-8, 300k-3, 300*l*, 300*l*-1 to 300*l*-5, 300m, 300m-2 to 300m-5, 300n-5, 300*o*-1, 300*o*-2, 300p, 300p-3, 300q, 300q-2, 300r, 300t)

Nov. 16, 1977, Pub. L. 95-190, §§ 2(a)-(c), 3(a)-(c), 4-10, 12, 13, 91 Stat. 1393-1399 (Title 42, §§ 300f, 300g-1, 300g-3, 300g-5, 300h, 300h-1, 300j, 300j-1, 300j-2, 300j-4, 300j-6, 300j-8)

Dec. 13, 1977, Pub. L. 95-215, §§ 1-8, 91 Stat. 1503-1507 (Title 42, §§ 207, 294, 294a, 294b, 294d, 294e, 294f, 294j, 294k, 294*l*, 294t, 294r, 295f-1, 295f-2, 300 note, 300c-11, 300*l*-4, 300*l*-5, 300m)

Public Printing and Documents
Pub. L. 95-94, title IV, §§ 404, 407(a), 408(a)(1), 409(a), Aug. 5, 1977, 91 Stat. 682, 683 (Title 44, §§ 721, 906, 1509, 1708)

Public Works and Economic Development Act Amendments of 1976
Pub. L. 95-31, title II, May 23, 1977, 91 Stat. 170 (Title 42, § 3121 note)

Public Works Employment Act of 1976
Pub. L. 95-30, title VI, §§ 602-607, May 23, 1977, 91 Stat. 164-168 (Title 42, §§ 6722, 6723, 6724, 6727, 6735, 6736)

Public Works Employment Act of 1977
Pub. L. 95-28, title I, May 13, 1977, 91 Stat. 116-120 (Title 42, §§ 6701, 6705, 6706, 6707, 6708, 6710)

Public Works for Water and Power Development and Energy Research Appropriation Act, 1978
Pub. L. 95-96, Aug. 7, 1977, 91 Stat. 797 (Title 43, § 377a)

Railroad Retirement Act of 1974
Pub. L. 95-216, title III, § 358, Dec. 20, 1977, 91 Stat. 1556 (Title 45, § 231b)

Refuse Act of 1899
Mar. 3, 1899, ch. 425, § 13, 30 Stat. 1152 (Title 33, § 407)

Regional Rail Reorganization Act of 1973
Pub. L. 95-199, Nov. 23, 1977, 91 Stat. 1423 (Title 45, §§ 712, 719, 724, 743)

Reorganization Act of 1977
Pub. L. 95-17, Apr. 6, 1977, 91 Stat. 29 (Title 5, §§ 901-912)

Revenue Adjustment Act of 1975
Pub. L. 95-30, title I, § 103(a), May 23, 1977, 91 Stat. 139 (Title 26, § 42 note)

Revised Organic Act of the Virgin Islands
Oct. 15, 1977, Pub. L. 95-134, Title III, § 301, 91 Stat. 1163 (Title 48, §§ 1574, 1575, 1599)

Rural Development Act of 1972
Pub. L. 95-113, title XIV, §§ 1420, 1441-1443, title XV, §§ 1504, 1505, Sept. 29, 1977, 91 Stat. 998, 1006, 1021 (Title 7, §§ 2652, 2654, 2663, 2667, 2669, 2670)

Rural Electrification Act of 1936
Aug. 4, 1977, Pub. L. 95-91, title VII, § 709(f), 91 Stat. 608 (Title 7, § 916)

Saccharin Study and Labeling Act
Pub. L. 95-203, Nov. 23, 1977, 91 Stat. 1451 (Title 21, §§ 301 note, 321, 343, 343a; Title 42, §§ 218 note, 289*l*-1 note)

Safe Drinking Water Act
Pub. L. 95-190, §§ 2(d), (e), 3(d), (e), Nov. 16, 1977, 91 Stat. 1393, 1394 (Title 42, §§ 300f notes, 300j-1)

Safe Drinking Water Amendments of 1977
Pub. L. 95-190, Nov. 16, 1977, 91 Stat. 1393 (Title 5, § 5108; Title 42, §§ 201 note, 300f, 300g-1, 300g-3, 300g-5, 300h, 300h-1, 300j, 300j-1, 300j-2, 300j-4, 300j-6, 300j-8, 300j-10, 7401 note, 7410, 7411, 7413, 7414, 7419, 7420, 7426, 7472, 7473, 7474, 7475, 7478, 7479, 7502, 7503, 7506, 7521, 7522, 7525, 7541, 7545, 7549, 7602, 7604, 7607, 7623, 7625e, 7626)

Saline Water Conversion Act of 1971
Pub. L. 95-84, § 1(a)(2), Aug. 2, 1977, 91 Stat. 400 (Title 42, § 1959h)

Second Liberty Bond Act
Oct. 4, 1977, Pub. L. 95-120, § 3, 91 Stat. 1090 (Title 31, § 752)

Second Supplemental Appropriation Act, 1975
Pub. L. 95-26, title I, § 103, May 4, 1977, 91 Stat. 82 (Title 2, § 123c)

Securities Exchange Act of 1934
Apr. 13, 1977, Pub. L. 95-20, 91 Stat. 47 (Title 15, § 78kk)
Dec. 19, 1977, Pub. L. 95-211, 91 Stat. 1492 (Title 15, § 78kk)
Dec. 19, 1977, Pub. L. 95-213, title I, §§ 102, 103, title II, §§ 202-204, 91 Stat. 1494-1496, 1498-1500 (Title 15, §§ 78m, 78*o*, 78dd-1, 78ff)

Siletz Indian Tribe Restoration Act
Pub. L. 95-195, Nov. 18, 1977, 91 Stat. 1415 (Title 25, §§ 711-711f)

Small Business Act
Mar. 24, 1977, Pub. L. 95-14, §§ 1-3, 91 Stat. 25 (Title 15, § 633)
Aug. 4, 1977, Pub. L. 95-89, title I, §§ 101, 102, title II, §§ 201-208, 211, title III, §§ 301-304, title IV, §§ 401-405, title V, §§ 501, 502, 91 Stat. 553-562 (Title 15, §§ 631 note, 633, 634, 636, 637, 639, 644)

Small Business Investment Act of 1958
Pub. L. 95-14, § 4, Mar. 24, 1977, 91 Stat. 25 (Title 15, § 694c)
Pub. L. 95-89, title I, §§ 103, 104, 105, title II, § 210, Aug. 4, 1977, 91 Stat. 556 (Title 15, §§ 682, 694, 694-2, 694c)

Social Security Act
May 23, 1977, Pub. L. 95-30, title V, §§ 501(a)-(d), 502, 503, 504, 91 Stat. 157-163 (Title 42, §§ 652, 654, 658, 659, 661, 662)
June 30, 1977, Pub. L. 95-59, §§ 4, 5, 91 Stat. 255 (Title 42, §§ 655, 1397a)
Aug. 1, 1977, Pub. L. 95-83, title I, § 105(a), 91 Stat. 384 (Title 42, § 1396b)
Oct. 25, 1977, Pub. L. 95-142, §§ 2(a)(1)-(3), 2(b)(1), 3(a)-(d)(2), 4(a), (b), 5-7(d), 8(a)-(d), 9, 10(a), 11(a), (b), 13(a), (b), 14(a), 15(a), 16(a), 17(a)-(c), 19(a), (b), 20(a), (b), 21(a), 22(a), 23(a), 91 Stat. 1175-1208 (Title 42, §§ 254e, 1301, 1320a, 1320a-3 to 1320a-5, 1320c-1, 1320c-3, 1320c-4, 1320c-6, 1320c-7, 1320c-9, 1320c-12, 1320c-15 to 1320c-17, 1320c-20 to 1320c-22, 1395f, 1395g, 1395h, 1395*l*, 1395u, 1395x, 1395y, 1395cc, 1395nn, 1396a, 1396b, 1396b-1, 1396h, 1396k, 1397a, 1397b)
Nov. 12, 1977, Pub. L. 95-171, §§ 3(a), 8(a), 9(a), 11, 91 Stat. 1354, 1355, 1357 (Title 42, §§ 603, 606, 657, 1382a, 1382b)
Dec. 13, 1977, Pub. L. 95-210, §§ 1(a), (b), (d), (f)-(i), 2(a)-(e), 91 Stat. 1485-1489 (Title

Social Security Act—Continued

42, §§ 1395k, 1395*l*, 1395x, 1395y, 1395aa, 1395cc, 1396a, 1396d, 1396i)

Dec. 20, 1977, Pub. L. 95-216, title I, §§ 102, 103, title II, §§ 201-205, title III, §§ 301-303, 313(a), 317(a), 319-321, 331, 332(a), 334-337, 351-353, 91 Stat. 1513, 1514-1528, 1530, 1531, 1535, 1538, 1541-1552 (Title 42, §§ 401-403, 405, 409-413, 415-418, 423, 424a, 426, 429, 430, 433, 602, 603, 611, 1315, 1395r, 1395u, 1395x)

Social Security Amendments of 1972

Pub. L. 95-83, title III, § 309(b), Aug. 1, 1977, 91 Stat. 396 (Title 42, § 1396b note)

Social Security Amendments of 1977

Pub. L. 95-216, Dec. 20, 1977, 91 Stat. 1510 (Title 2, § 441i; Title 26, §§ 1401, 1402, 3101, 3102, 3111, 3121, 3304, 3306, 6051; Title 42, §§ 401-403, 405, 409-413, 415-418, 423, 424a, 426, 429, 430, 433, 602, 603, 611, 902 notes, 907 note, 907a, 909, 1315, 1383 notes, 1395r, 1395u, 1395x; Title 45, § 231b)

Soil and Water Resources Conservation Act of 1977

Pub. L. 95-192, Nov. 18, 1977, 91 Stat. 1407-1411 (Title 16, §§ 2001-2009)

Soil Conservation and Domestic Allotment Act

Sept. 29, 1977, Pub. L. 95-113, title XV, § 1501, 91 Stat. 1019, 1020 (Title 16, §§ 590h, 590*o*)

Supplemental Appropriation Act, 1957

May 4, 1977, Pub. L. 95-26, title I, 91 Stat. 96 (Title 31, § 724a)

Supplemental Appropriations Act, 1973

Pub. L. 95-94, title I, § 112(a)-(c), Aug. 5, 1977, 91 Stat. 663, 664 (Title 2, § 58)

Supplemental Appropriations Act, 1977

Pub. L. 95-26, May 4, 1977, 91 Stat. 61 (Title 2, §§ 31a-1, 32a, 59, 61-1 note, 61d, 61g, 61g-4, 61h-1 note, 61h-4, 61h-5, 61h-6, 61j-1, 61j-2, 61k, 61*l*, 64-2, 64-3, 65b, 72a-1c, 72a-1d, 121a, 123c; Title 5, § 5108 note; Title 31, § 724a; Title 40, §§ 210, 212a note)

Pub. L. 95-94, title I, § 110(a), Aug. 5, 1977, 91 Stat. 662 (Title 2, § 61h-6)

Supplemental Housing Authorization Act of 1977

Pub. L. 95-24, Apr. 30, 1977, 91 Stat. 55 (Title 12, §§ 1701 note, 1706e, 1715k, 1715*l*, 1735c, 1749bbb, 1749bbb-8; Title 42, §§ 1437c, 1437f, 1437g, 1441 note, 1451)

Surface Mining Control and Reclamation Act of 1977

Pub. L. 95-87, Aug. 3, 1977, 91 Stat. 445 (Title 18, § 1114; Title 30, §§ 1201, 1202, 1211, 1221-1229, 1231-1243, 1251-1279, 1281, 1291-1309, 1311-1316, 1321-1328)

Tariff Act of 1930

Aug. 17, 1977, Pub. L. 95-106, §§ 1, 2(a), 3(a), (b), 4, 91 Stat. 867-869 (Title 19, §§ 1330, 1331, 1332 note, 1484)

Nov. 8, 1977, Pub. L. 95-159, §§ 1(a), 2(a), 3(a), 91 Stat. 1269, 1270 (Title 19, § 1202)

Nov. 8, 1977, Pub. L. 95-160, §§ 1(a), 2(a), 3(a), 91 Stat. 1271 (Title 19, § 1202)

Nov. 8, 1977, Pub. L. 95-161, §§ 1(a), 2(a), 3(a), (b), 91 Stat. 1273, 1274 (Title 19, § 1202)

Nov. 8, 1977, Pub. L. 95-162, §§ 1(a), (b), 2(a), 3(a), (b), 91 Stat. 1275-1277 (Title 19, § 1202)

Nov. 12, 1977, Pub. L. 95-170, §§ 1, 2, 91 Stat. 1351 (Title 19, § 1202)

Nov. 12, 1977, Pub. L. 95-172, § 1(a), 91 Stat. 1358 (Title 19, § 1202)

Nov. 23, 1977, Pub. L. 95-198, § 1, 91 Stat. 1422 (Title 19, § 1202)

Tariff Schedules of the United States

Nov. 8, 1977, Pub. L. 95-159, §§ 1(a), 2(a), 3(a), 91 Stat. 1269, 1270 (Title 19, § 1202)

Nov. 8, 1977, Pub. L. 95-160, §§ 1(a), 2(a), 3(a), 91 Stat. 1271 (Title 19, § 1202)

Nov. 8, 1977, Pub. L. 95-161, §§ 1(a), 2(a), 3(a), (b), 91 Stat. 1273, 1274 (Title 19, § 1202)

Nov. 8, 1977, Pub. L. 95-162, §§ 1(a), (b), 2(a), 3(a), (b), 91 Stat. 1275-1277 (Title 19, § 1202)

Nov. 12, 1977, Pub. L. 95-170, §§ 1, 2, 91 Stat. 1351 (Title 19, § 1202)

Nov. 12, 1977, Pub. L. 95-172, § 1(a), 91 Stat. 1358 (Title 19, § 1202)

Nov. 23, 1977, Pub. L. 95-198, § 1, 91 Stat. 1422 (Title 19, § 1202)

Dec. 12, 1977, Pub. L. 95-206, §§ 1, 2, 91 Stat. 1462 (Title 19, § 1202)

Tax Reduction Act of 1975

Pub. L. 95-30, title I, § 103(b), May 23, 1977, 91 Stat. 139 (Title 26, § 43 note)

Tax Reduction and Simplification Act of 1977

Pub. L. 95-30, May 23, 1977, 91 Stat. 126 (Title 5, § 5520; Title 15, §§ 1673, 1675; Title 26, §§ 1, 3, 11, 21, 36, 37 note, 42, 43 note, 44B, 51, 52, 53, 56, 57, 63, 105 notes, 141, 142, 143, 144, 145, 161, 162 note, 170, 172, 188, 211, 280A, 280C, 381, 383, 402, 441, 443, 447 note, 511, 584, 602 note, 603 note, 613A, 635 note, 641, 642, 667, 703, 821, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 3402, 6012, 6014, 6096, 6212, 6411, 6501, 6504, 6511, 6601, 6611, 6654, 7651 note; Title 42, §§ 652, 654, 658, 659, 661, 662, 6721 note, 6722, 6723, 6724, 6726, 6727, 6735, 6736)

Tax Reform Act of 1976

Pub. L. 95-30, title I, § 103(c), May 23, 1977, 91 Stat. 139 (Title 26, § 42 note)

Technology Assessment Act of 1972

Pub. L. 95-94, title I, § 116, Aug. 5, 1977, 91 Stat. 672

Trading With the Enemy Act

Dec. 28, 1977, Pub. L. 95-223, title I, §§ 101(a), 102, 91 Stat. 1625 (Title 50 App., § 5)

Treasury Department Appropriations Act, 1978

Pub. L. 95-81, title I, July 31, 1977, 91 Stat. 341

Treasury, Postal Service, and General Government Appropriation Act, 1978

Pub. L. 95-81, July 31, 1977, 91 Stat. 341 (Title 26, § 7443 note; Title 31, §§ 181 note, 638c, 699b; Title 33, § 776)

Unemployment Compensation Amendments of 1976

Pub. L. 95-19, title III, §§ 301(a)-(c), 303, Apr. 12, 1977, 91 Stat. 43, 45 (Title 26, § 3304 notes)

United Nations Participation Act of 1945

Mar. 18, 1977, Pub. L. 95-12, 91 Stat. 22 (Title 22, § 287c)

United States Grain Standards Act

Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1601, 1602, 1604-1608, 91 Stat. 1024-1031 (Title 7, §§ 74 notes, 75, 75a, 76, 77, 78, 79, 79a, 79b, 84, 87, 87a, 87b, 87e, 87f-1, 87f-2, 87h)

United States Housing Act of 1937

Apr. 30, 1977, Pub. L. 95-24, title I, § 101, 91 Stat. 55 (Title 42, §§ 1437c, 1437f, 1437g)

Oct. 12, 1977, Pub. L. 95-128, title II, § 201, 91 Stat. 1128, 1129 (Title 42, §§ 1421b note, 1437c, 1437d note, 1437f, 1437g)

Urban Growth and New Community Development Act of 1970

Pub. L. 95-128, title VI, § 601, Oct. 12, 1977, 91 Stat. 1142-1144 (Title 42, §§ 4501, 4502, 4503)

Urban Mass Transportation Act of 1964

Pub. L. 95-187, §§ 1, 2, Nov. 16, 1977, 91 Stat. 1385, 1386 (Title 49, §§ 1613, 1614)

Veterans' Administration Physician and Dentist Pay Comparability Act of 1975

Pub. L. 95-201, § 2, Nov. 23, 1977, 91 Stat. 1429 (Title 38, § 4118 note)

Veterans' Administration Physician and Dentist Pay Comparability Amendments of 1977

Pub. L. 95-201, Nov. 23, 1977, 91 Stat. 1429 (Title 38, §§ 101 note, 4105, 4107, 4114, 4118, 5001)

Veterans' Benefits

Pub. L. 95-116, § 1(a), Oct. 3, 1977, 91 Stat. 1062 (Title 38, § 1901)

Pub. L. 95-117, titles I-IV, Oct. 3, 1977, 91 Stat. 1063-1066 (Title 38, §§ 314, 315, 362, 411, 413, 414, 801, 1820, 3020)

Pub. L. 95-126, §§ 1(a), 3, Oct. 8, 1977, 91 Stat. 1106, 1108 (Title 38, §§ 101, 3103)

Pub. L. 95-201, §§ 3(a), 4(a)(1), (2), (c), 5(a)(1), (2), Nov. 23, 1977, 91 Stat. 1429-1432 (Title 38, §§ 4105, 4107, 4114, 4118, 5001)

Pub. L. 95-202, §§ 1, title I, 101-105, title II, 201(a), (b), 202, 203, title III, 301-304(a), 305(a)(1), (2), (b)(1), 306, 308, 309, 310(b)(1), Nov. 23, 1977, 91 Stat. 1433-1449 (Title 38, §§ 101, 210, 246, 1504, 1662, 1663, 1673, 1674, 1677, 1682, 1682A, 1685, 1692, 1696, 1698, 1712, 1724, 1732, 1738, 1742, 1774, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1798, 2007, 2014)

Veterans Disability Compensation and Survivor Benefits Act of 1977

Pub. L. 95-117, Oct. 3, 1977, 91 Stat. 1063 (Title 38, §§ 101 note, 314, 315, 362, 411, 413, 414, 801, 1820, 3020)

Vocational Education Act of 1963

Pub. L. 95-40, § 1(1)-(27), June 3, 1977, 91 Stat. 203-207 (Title 20, §§ 2302, 2303, 2305, 2306, 2307, 2308, 2310, 2311, 2330, 2332, 2350, 2351, 2352, 2353, 2354, 2391, 2392, 2441, 2442, 2461)

Vocational Education Amendments of 1968

Pub. L. 95-40, § 1(29), June 3, 1977, 91 Stat. 207 (Title 20, § 11 note)

Water Resources Planning Act

Pub. L. 95-41, June 6, 1977, 91 Stat. 209 (Title 42, § 1962d)

Water Resources Research Act of 1964

Pub. L. 95-84, § 1(a)(1), Aug. 2, 1977, 91 Stat. 400 (Title 42, § 1961b)

Watershed Protection and Flood Prevention Act

Sept. 29, 1977, Pub. L. 95-113, Title XV, §§ 1506, 1508, 91 Stat. 1022 (Title 16, §§ 1002, 1005, 1006a)

Wheat and Wheat Foods Research and Nutrition Education Act

Pub. L. 95-113, title XVII, Sept. 29, 1977, 91 Stat. 1031 (Title 7, §§ 3401-3417)

Youth Employment and Demonstration Projects Act of 1977

Pub. L. 95-93, Aug. 5, 1977, 91 Stat. 627 (Title 29, §§ 801 note, 802, 803, 845, 872, 891, 892-892d, 893-893g, 894-894g, 895-895f, 962, 968, 981, 993-993i)

TABLES

TABLE II—REVISED STATUTES 1878

Showing where sections of the Revised Statutes of the United States of 1878 will be found in this edition of the United States Code.

Abbreviations

Rep.—Repealed. Where "Rep." appears in the status column following a U.S.C. reference, an explanation of the repeal can be found under such U.S.C. title and section. Where no U.S.C. reference appears, the Rev. St. section was repealed prior to the adoption of the United States Code (1926) or for other reasons was not included in the Code but was subsequently repealed.

Rev. T.—Revised Title. Where "Rev. T." appears in the status column, the U.S.C. reference is to title and section where the Rev. St. section was originally allocated in the U.S.C. To locate the Rev. St. section in the U.S.C. new title, see Table I.

Elim.—Eliminated. Where "Elim." appears in the status column following a U.S.C. reference, the reason for the elimination of the text can be found under such U.S.C. title and section.

I.R.C. '39—Internal Revenue Code of 1939. Where I.R.C. '39 appears in the status column, it is an indication that the provision was repealed or otherwise superseded by the Internal Revenue Code of 1939.

R.S.	U.S.C		
Sec.	Tit.	Sec.	Status
1735	22	1199	Rep.
1736	22	1199	Rep.

TABLE III—STATUTES AT LARGE

Showing where the Acts of Congress will be found in the United States Code

Abbreviations

Rep.—Repealed Where "Rep." appears in the status column following a U.S.C. reference, an explanation of the repeal can be found under such U.S.C. title and section.

Rev. T.— Revised Title. Where "Rev. T." appears in the status column, the U.S.C. reference is to title and section where the section of the Act of Congress was originally allocated in the U.S.C. To locate the section of the Act in the U.S.C. revised title, see Table I.

Elim.—Eliminated. Where "Elim." appears in the status column following a U.S.C. reference, the reason for the elimination of the text can be found under such U.S.C. title and section. Where "Elim." appears in the status column and the U.S.C. column is blank, the text had at one time appeared as a note to a prior section of the Code.

I.R.C. '39.—Internal Revenue Code of 1939. Where I.R.C. '39 appears in the status column, it is an indication that the provision was repealed or otherwise superseded by the Internal Revenue Code of 1939.

62d Cong. 37 Stat.	Pub. L.	Chapter	Section	Page	U.S.C. Title	U.S.C. Section	Status
1913—Mar. 4	426	141	8	738	29	51, 557	Rep.
63d Cong. 38 Stat.							
1913—Dec. 23	43	6	2A		12	225a	
73d Cong. 48 Stat.							
1934—June 6	291	404	30A		15	78dd-1	
26	467	750	210		12	1789a	
			211		12	1790	
74th Cong. 49 Stat.							
1935—June 28	170	322	4		22	276a-2	
			5		22	276a-3	
			6		22	276a-4	
Aug. 14	271	531	233		42	433	
			411		42	611	
			461		42	661	
			462		42	662	
			708		42	909	
			1121		42	1320a	
			1124		42	1320a-3	
			1125		42	1320a-4	
			1126		42	1320a-5	
			1171		42	1320c-20	
			1172		42	1320c-21	
			1173		42	1320c-22	
			1911		42	1396j	
			1912		42	1396k	

						U.S.C.		
75th Cong.								
50 Stat.	Pub. L.	Chapter	Section	Page	Title	Section	Status
1937—Aug. 25	354	757		770	22	276b	Rep.
78th Cong.							
58 Stat.							
1944—July 1	410	373	757		42	294y-1	
79th Cong.							
59 Stat.							
1945—July 31	171	339	27		22	286e-1f	
79th Cong.							
60 Stat.							
1946—June 4	396	281	20		42	1769	
			21		42	1769a	
Aug. 1	585	724	26		42	2036	Rep.
			201		42	2251	Rep.
			202		42	2252	Rep.
			203		42	2253	Rep.
			204		42	2254	Rep.
			205		42	2255	Rep.
			206		42	2256	Rep.
			207		42	2257	Rep.
			301		42	2258	
			302a		42	2251-2257	
			302b		42	2315	
			302c		31	1302	
			302d		2	190j	
			303		42	2259	
2	601	753	137	832	2	190	Rep.
13	726	959	29		25	70v-3	
80th Cong.							
62 Stat.							
1948—June 25	772	645	1	789	18	1862	Rep.
30	845	758	214		33	1294	
			215		33	1295	
			216		33	1296	
			217		33	1297	
81st Cong.							
63 Stat.							
1949—July 15	171	338	528		42	1490h	
Oct. 31	439	792	105A		7	1444c	
			107A		7	1445b	
			108		7	1445c	
			109		7	1445d	
			110		7	1445e	
			111		7	1445f	
81st Cong.							
64 Stat.							
1950—Sept. 27	845	1054	1-13	1067-1071	16	981, 981 nts, 982-991	Rep.
83d Cong.							
68 Stat.							
1954—July 10	480	469	112		7	1712	
			113		7	1713	
			114		7	1714	
			115		7	1715	
			301		7	1727	
			302		7	1727a	
			303		7	1727b	
			304		7	1727c	
			305		7	1727d	
			306		7	1727e	
			307		7	1727f	
			308	458	7	1427	
			309	458	7	1431	
			310	459	7	1692	
Aug. 27	680	1018	10		22	1980	
30	703	1073	1(26)	926	42	2036	Rep.
			1(201)	956	42	2251	Rep.
			1(202)	956	42	2252	Rep.
			1(203)	956	42	2253	Rep.
			1(204)	957	42	2254	Rep.
			1(205)	957	42	2255	Rep.
			1(206)	957	42	2256	Rep.
			1(207)	957	42	2257	Rep.
			1(301)		42	2258	
			1(302a)		42	2251-2257	

83d Cong.

68 Stat.	Pub. L.	Chapter	Section	Page	U.S.C. Title	U.S.C. Section	Status
1954—Aug. 30	703	1073	1(302b)		42	2315	
			1(302c)		31	1302	
			1(302d)		2	190j	
			1(303)		42	2259	

83d Cong.

68A Stat.

1954—Aug. 16	591	736		15	26	36	Rep.
				40	26	141	Rep.
				40	26	142	Rep.
				41	26	144	Rep.
				42	26	145	Rep.

84th Cong.

69 Stat.

1955—July 14	159	360	101		42	7401	
			102		42	7402	
			103		42	7403	
			104		42	7404	
			105		42	7405	
			106		42	7406	
			107		42	7407	
			108		42	7408	
			109		42	7409	
			110		42	7410	
			111		42	7411	
			112		42	7412	
			113		42	7413	
			114		42	7414	
			115		42	7415	
			116		42	7416	
			117		42	7417	
			118		42	7418	
			119		42	7419	
			120		42	7420	
			121		42	7421	
			122		42	7422	
			123		42	7423	
			124		42	7424	
			125		42	7425	
			126		42	7426	
			127		42	7427	
			128		42	7428	
			150		42	7450	
			151		42	7451	
			152		42	7452	
			153		42	7453	
			154		42	7454	
			155		42	7455	
			156		42	7456	
			157		42	7457	
			158		42	7458	
			159		42	7459	
			160		42	7460	
			161		42	7471	
			162		42	7472	
			163		42	7473	
			164		42	7474	
			165		42	7475	
			166		42	7476	
			167		42	7477	
			168		42	7478	
			169		42	7479	
			169A		42	7491	
			171		42	7501	
			172		42	7502	
			173		42	7503	
			174		42	7504	
			175		42	7505	
			176		42	7506	
			177		42	7507	
			178		42	7508	
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			5	1483	42	2039	
			6	1483	42	2040	
			7	1483	42	2201 nt	
		95-210	1(a)	1485	42	1395k	
			1(b)	1485	42	1395*l*	
			1(c)	1485	42	1395*l* nt	
			1(d)	1485	42	1395x	
			1(e)	1487	42	1395x nt	
			1(f)	1487	42	1395y	
			1(g), (h)	1487, 1488	42	1395x	
			1(i)	1488	42	1395aa	
			1(j)	1488	42	1395k nt	
			2(a), (b)	1488	42	1396d	
			2(c)	1488	42	1396a	
			2(d)	1489	42	1396i	
			2(e)	1489	42	1395cc	
			2(f)	1489	42	1395cc nt	
			3	1489	42	1395b-1 nt	
			4	1490	42	1395*ll*	
			5	1491	26	6103	
	19	95-211		1492	15	78kk	
		95-212		1493	16	1535	
		95-213	101	1494	15	78a nt	
			102	1494	15	78m	
			103(a)	1495	15	78dd-1	
			103(b)	1496	15	78ff	
			104	1496	15	78dd-2	
			201	1498	15	78a nt	
			202	1498	15	78m	
			203	1499	15	78m	
			204	1500	15	78o	
		95-214		1501	29	1381	
		95-215	1(a)	1503	42	295f-1	
			1(b)	1504	42	295f-2	
			2	1504	42	295f-1	
			3	1504	42	294r	
			4 (a)-(d)	1505	42	294d	
			4(e)(1)	1506	42	294	
			4(e)(2)-(4)	1506	42	294a	
			4(e)(5)	1506	42	294b	
			4(e)(6)	1506	42	294d	
			4(e)(8), (9)	1506	42	294e	
			4(e)(10)	1506	42	294f	
			4(e)(12)	1506	42	294k	
			4(e)(13)	1506	42	294*l*	
			4(f)	1506	42	294j	
			4(g)	1506	42	294d nt	
			5	1506	42	294t, 294t nt	
			6(a)(1)	1507	42	300*l*-4	
			6(a)(2)	1507	42	300*l*-5	
			6(b)	1507	42	300m	
			7	1507	42	300 nt	
			8(a)	1507	42	300c-11	
			8(b)	1507	42	207	
			8(c)	1507	42	295f-2	
			9	1508	24	165	
	20	95-216	1	1509	42	1305 nt	
			101(a)(1)	1510	26	3101	
			101(a)(2)	1511	26	3111	
			101(a)(3)	1511	26	1401	
			101(b)(1)	1511	26	3101	
			101(b)(2)	1512	26	3111	
			101(b)(3)	1512	26	1401	
			102	1513	42	401	
			103(a)-(c)(1)	1513, 1514	42	430	
			103(c)(2)	1514	42	430 nt	
			103(d)	1514	42	415	
			104	1514	26	1401 nt	

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1977—Dec. 20	95-216	201	1514	42	415	
		202	1524	42	403	
		203	1527	42	402	
		204(a)-(d)	1527, 1528	42	402	
		204(e)	1528	42	403	
		205(a)	1528	42	402	
		205(b)	1529	42	402	
		205(c)	1529	42	417	
		205(d)	1529	42	424a	
		205(e)	1529	42	1395r	
		206	1529	42	402 nt	
		301(a)-(c)(1)	1530	42	403	
		301(c)(2)	1530	42	403 nt	
		301(d)	1530	42	403	
		301(e)	1531	42	403 nt	
		302(a)-(d)	1531	42	403	
		302(e)	1531	42	403 nt	
		303(a)	1531	42	403	
		303(b)	1531	42	403 nt	
		311	1531	42	902 nt	
		312(a), (b)	1532	26	3121	
		312(c)	1533	26	3121 nt	
		312(d)	1534	26	3121	
		312(e)	1535	26	3121 nt	
		312(f), (g)	1535	26	3121	
		312(h)	1535	26	3121 nt	
		313(a)	1535	42	411	
		313(b)	1536	26	1402	
		313(c)	1536	42	411 nt	
		314(a)	1536	26	3121	
		314(b)	1536	26	3306	
		314(c)	1536	26	3121 nt	
		315(a)	1536	26	3121	
		315(b)	1537	26	3111	
		315(c)	1537	26	3111 nt	
		316	1537	26	1402 nt	
		317(a)	1538	42	433	
		317(b)(1)	1539	26	1401	
		317(b)(2)	1540	26	3101, 3111	
		317(b)(3)	1540	26	6051	
		317(b)(4)	1540	26	1401 nt	
		318	1540	42	418	
		319	1541	42	418	
		320	1541	42	418	
		321	1541	42	418	
		331(a)-(c)	1541, 1542	42	402	
		331(d)	1542	42	402 nt	
		332(a)(1)	1542	42	402	
		332(a)(2)	1543	42	402	
		332(a)(3)	1543	42	426	
		332(b)	1543	42	402 nt	
		333(a)	1543	42	909	
		333(b)	1544	42	909 nt	
		334(a)-(d)(4)(A)	1544-1546	42	402	
		334(d)(4)(B)	1546	42	426	
		334(d)(5), (6)	1546	42	402	
		334(e)	1546	42	402	
		334(f)	1546	42	402 nt	
		334(g)	1546	42	402 nt	
		335	1547	42	423	
		336(a), (b)	1547	42	402	
		336(c)	1547	42	402 nt	
		336(d)	1548	42	402 nt	
		337(a)	1548	42	416	
		337(b)	1548	42	402	
		337(c)	1548	42	402 nt	
		341	1548	42	902 nt	
		351(a)(1)-(3)(A)	1549	42	409	
		351(a)(3)(B)	1549	42	410	
		351(b)	1549	42	412	
		351(c)	1550	42	413	
		351(d)	1551	42	409 nt	
		352(a), (b)	1552	42	413	
		352(c)	1552	42	413 nt	
		353(a)	1552	42	403	
		353(b)	1553	42	418	
		353(c)(1)	1553	42	424a, 424a nt	
		353(c)(2)	1553	42	424a	
		353(d)	1554	42	429	
		353(e)	1554	42	430	
		353(f)(1)	1554	42	402, 402 nt	
		353(f)(2)	1554	42	405	
		353(g)	1555	42	418 nt	
		355(a), (b)	1555	26	3102	
		355(c)	1555	26	3102 nt	
		356(a)-(d)	1555	26	3121	
		356(e)	1556	26	3121 nt	

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1977—Dec. 20	95-216	358	1556	45	231b	
		361	1556	42	907a	
		371	1559	42	1383 nt	
		372	1559	42	907 nt	
		401	1559	42	603	
		402(a)	1560	42	603	
		402(b)	1561	42	603 nt	
		403(a)	1561	42	611	
		403(b)	1561	26	3304	
		403(c)	1561	42	602	
		403(d)	1562	42	602 nt	
		404	1562	42	1315	
		405	1564	42	1383 nt	
		501(a)	1564	42	1395x	
		501(b)	1565	42	1395u	
		501(c)	1565	42	1395x nt	
		502(a)	1565	2	441i	
		502(b)	1565	2	441i nt	
27	95-217	1	1566	33	1251 nt	
		2	1566	33	1251 nt	
		3	1566	33	1376 nt	
		4(a), (b)	1566	33	1254	
		4(c)	1566	33	1256	
		4(d)	1566	33	1262	
		4(e)	1566	33	1288	
		4(f)	1567	33	1324	
		4(g)	1567	33	1376	
		5(a)	1567	33	1251	
		5(b)	1567	33	1252	
		6, 7	1567	33	1254	
		8, 9	1568	33	1255	
		10	1568	33	1259	
		11	1568	33	1263	
		12-16	1569-1571	33	1281	
		17	1571	33	1282	
		18, 19	1571	33	1283	
		20-24	1572-1574	33	1284	
		25	1574	33	1285	
		26(a)	1575	33	1285	
		26(b)	1575	33	1251	
		27, 28	1575	33	1285	
		29(a)	1576	33	1286	
		29(b)	1576	33	1286 nt	
		30	1576	33	1287	
		31-33(a)	1576, 1579	33	1288	
		33(b)	1577	33	1362	
		33(c)	1577	33	1342	
		34	1577	33	1288	
		35	1579	33	1288	
		36	1581	33	1291	
		37	1581	33	1292	
		38	1581	33	1294	
		39	1581	33	1295	
		40	1581	33	1296	
		41	1582	33	1297	
		42-47	1582-1586	33	1311	
		48, 49	1587, 1588	33	1314	
		50	1588	33	1314, 1314 nt	
		51	1588	33	1314	
		52	1589	33	1315	
		53(a), (b)	1589, 1590	33	1317	
		53(c)	1590	33	1311	
		54(a)	1591	33	1317	
		54(b)	1591	33	1319	
		54(c)(1)	1591	33	1342	
		54(c)(2)	1591	33	1342 nt	
		54(d)	1591	33	1345	
		55, 56	1591	33	1319	
		57, 58(a)-(g)	1593-1596	33	1321	
		58(h)	1596	33	1321 nt	
		58(i)	1596	33	1321	
		58(j)	1596	33	1321 nt	
		58(k)-(m)	1596	33	1321	
		59	1596	33	1322	
		60, 61	1597, 1598	33	1323	
		62(a)	1598	33	1324	
		62(b)	1598	33	1314	
		63	1599	33	1328	
		64	1599	33	1341	
		65, 66	1599, 1600	33	1342	
		67(a), (b)	1600-1606	33	1344	
		67(c)(1)	1606	33	1318	
		67(c)(2)	1606	33	1319	
		68	1606	33	1345	
		69	1607	33	1364	
		70-72	1608, 1609	33	1375	
		73	1609	33	1314 nt	

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1977—Dec.	27	95-217	74	1609	33	1251 nt.	
			75	1609	33	1284 nt.	
			76	1610	33	1344 nt.	
			78	1611	33	1281a	
	28	95-219	1	1613	16	1823 nt.	
			2	1613	16	1823 nt.	
			3(a)(1)	1613	5 App.		
			3(a)(1)	1613	15	1511 nt.	
			3(a)(2)	1613	15	1511a	
			3(b)	1614	5	5316	
			3(c)	1614	5	5108	
		95-220	1	1615	31	1701 nt.	
			2	1615	31	1701	
			3	1615	31	1702	
			4	1615	31	1703	
			5	1616	31	1704	
			6	1616	31	1705	
			7	1617	31	1706	
			8	1617	31	1707	
			9	1617	31	1701 nt.	
		95-222	1	1619	42	2701 nt, 2996 nt	
			2	1619	42	2996	
			3, 4	1619	42	2996c	
			5(a), (b)	1619	42	2996e	
			5(c)	1619	42	2996i	
			6	1620	42	2996e	
			7(a)	1620	42	2996e	
			7(b)	1620	42	2996f	
			8	1620	42	2996e	
			9(a), (b)(1)	1620, 1621	42	2996f	
			9(b)(2)	1621	42	2996g	
			9(c) to 13	1621-1623	42	2996f	
			14	1623	42	2996h	
			15	1623	42	2996i	
			16	1624	42	2996j	
			17(a)(1)	1624	42	2996f nt	
			17(a)(2)	1624	42	2996i nt	
			17(b)	1624	42	2996 nt.	
		95-223	101(a)	1625	50 App.	5	
			101(b), (e)	1625	50 App.	5 nt.	
			101(d)	1625	50	1651	
			102	1625	50 App.	5	
			103(a)	1626	50 App.	16	
			103(b)	1626	50 App.	5	
			201	1626	50	1701 nt.	
			202	1626	50	1701	
			203	1626	50	1702	
			204	1627	50	1703	
			205	1628	50	1704	
			206	1628	50	1705	
			207	1628	50	1706	
			208	1629	50	1701 nt.	
			301(a), (b)(1)	1629	50 App.	2403	
			301(b)(2)	1629	50 App.	2405	

TABLE VI—EXECUTIVE ORDERS

This Table lists the Executive Orders that implement general and permanent law as contained in the United States Code.

Exec. Ord.			U.S.C.		
Date		No.	Title	Sec.	Status
1958					
Aug.	20	10779	42	7401 nt	
1966					
May	26	11282	42	7418 nt	
Aug.	10	11296	33	701 nt	Elim.
1967					
Mar.	5	11330	42	2705 nt	
1969					
Mar.	20	11460	50	403 nt	Elim.
1970					
Feb.	4	11507	42	7401, 7418 nts	
June	4	11533	50 App.	2403 nt	Elim.
1972					
Aug.	29	11683	50 App.	2403 nt	Elim.
1973					
Sept.	10	11738	42	7606 nt	
1974					
Feb.	21	11769	5 App.	2 nt	Elim.
Aug.	14	11798	50 App.	2403 nt	Elim.
Oct.	7	11813	5	3301 nt	Elim.
Nov.	5	11818	50 App.	2403 nt	Elim.
1975					
July	21	11872	5	5317 nt	Elim.
1976					
Mar.	1	11907	50 App.	2403 nt	Elim.
Sept.	30	11940	50 App.	2403 nt	Elim.
Oct.	1	11941	5	5332 nt	Elim.
	25	11943	5	5332 nt	Elim.
1977					
Jan.	19	11962	22	3107 nt	Elim.
		11964	33	1602 nt	
	31	11968	5	5520 nt	Elim.
Feb.	2	11969	15	717 nt	
Mar.	18	11978	22	287c nt	
1977					
May	4	11983	5	5317 nt	
		11984	50	403 nt	
	13	11985	50	401 nt	
	20	11986	5	5317 nt	
	24	11987	42	4321 nt	
		11988	42	4321 nt	
		11989	42	4321 nt	
		11990	42	4321 nt	
		11991	42	4321 nt	
		11992	28	nt prec. chap. 1	
		11993	28	44 nt	
June	1	11994	50	401 nt	
	8	11995	5	5317 nt	
	22	11997	5	5520 nt	
	27	11998	37	1009 nt	
		11999	5	5317 nt	
	29	12001	3	301 nt	
July	7	12002	50 App.	2403 nt	
	20	12003	42	6201 nt	
		12004	5	5304 nt	
	23	12005	19	1202	
Aug.	22	12007	5 App.	14 nt	
			15	631 nt	
			20	887d nt	
			22	3107 nt	
			42	2000e nt, 4321 nt.	
	25	12008	5	3301 nt	
Sept.	13	12009	42	7341 nt	
	28	12010	5	5332 nt	
			22	867nt, 870 nt.	
			37	1009 nt	
			38	4107 nt	
Oct.	7	12013	22	286f nt, 3101 nt.	
			31	16 nt, 18b nt.	
	19	12014	5	4504 nt	
	26	12015	5	3301 nt	
Nov.	3	12017	10	802 nt	
		12019	10	nt prec. 1121.	
	8	12020	38	1780 nt	
	30	12021	5	3301 nt	
Dec.	1	12022	15	nt prec. 1	
		12023	50	403 nt	
		12024	5 App.	2 nt	
		12025	5	5317 nt	
	5	12026	42	7292 nt	
		12027	5	7301 nt	
			22	801 nt	
			31	16 nt	
	12	12028	3	nt prec. 101	
	14	12029	5 App.	14 nt	
	15	12030	40	486 nt	
	27	12032	19	1202, 2462 nt.	

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TABLE VII—PROCLAMATIONS

This Table lists the Proclamations that are referred to in the United States Code.

Proc.			U.S.C.		
Date		No.	Title	Sec.	Status
1967					
July	12	3792	17	104 nt	
1977					
Jan.	21	4483	50 App.	462 nt	
Feb.	2	4485	15	717 nt	Elim.
Apr.	1	4495	15	717 nt	
June	15	4509	19	1202	
	22	4510	19	1202	
Oct.	24	4534	48	1681 nt	
Nov.	11	4538	19	1202	
		4539	19	1202	

TABLE VIII—REORGANIZATION PLANS

This Table lists the Reorganization Plans that are set out in the United States Code.

Statutes at Large			U.S.C.		
Section	Vol.	Page	Title	Section	Status
		1977 Plan No. 1			
All	91	1633	3	nt prec. 101	
All	91	1633	5 App.		
		1977 Plan No. 2			
All	91	1636	5 App.		
All	91	1636	22	1461 nt	

TABLE IX—INTERNAL REFERENCES

This Table lists those sections of the United States Code that are referred to in other sections of the Code together with citations to the referring sections.

TITLE 2—THE CONGRESS

Section	*Referred to in*
58	Section 68b of this title.
61-1	Section 61-1a of this title.
104a	Section 58 of this title.
167j	Title 40 section 136.
171	Section 172 of this title.
172	Section 171 of this title.
173	Sections 171, 172 of this title.
174	Sections 171, 172 of this title.
175	Sections 171, 172 of this title.
356	Section 359 of this title.
358	Section 31 of this title; title 11 section 68; title 28 sections 5, 44, 135, 173, 213, 252, 792.
431	Sections 58, 437a of this title; title 22 section 901a; title 26 section 6012; title 42 sections 2943, 5043.

TITLE 4—FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES

Section	*Referred to in*
110	Sections 108, 113 of this title.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

Section	*Referred to in*
105	Title 12 section 1749bbb-10b; title 22 section 2685; title 29 sections 203, 633a; title 41 section 48b; title 42 sections 2000e-16, 4071, 4902, 6964; title 50 section 1601.
551	Sections 500, 552, 572, 701, 3344 of this title; title 2 sections 501, 502; title 15 sections 78d-1, 78w, 766, 2053; title 26 sections 6103, 9041; title 30 section 956; title 31 section 1701; title 42 sections 2231, 6107, 6393, 7191; title 47 sections 155, 409; title 50 App. sections 2168, 2407.
552	Sections 551, 552a, 552b of this title; title 2 sections 472, 501, 502; title 7 section 1642; title

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
552 (Cont.)	15 sections 18a, 78m, 78w, 78x, 78ggg, 719d, 773, 796, 1314, 1418, 2055, 2217, 2613; title 16 sections 1100b-5, 1402; title 19 section 160; title 21 sections 360d, 360j, 379; title 26 section 6110; title 31 section 1052; title 33 sections 524, 941, 1513; title 39 section 410; title 42 sections 2996d, 3527, 4332, 5916, 6272-6274, 6346, 7135; title 45 section 546; title 46 section 1463; title 49 sections 1357, 1805, 1806, 1905; title 50 App. sections 463, 1221, 2158, 2158a, 2159.
552a	Section 552b of this title; title 26 section 6103; title 38 section 3301; title 39 section 410; title 42 section 3525; title 44 section 2906.
552b	Section 552 of this title; title 39 section 410; title 42 sections 2996c, 7171, 7234.
553	Sections 552a, 556 of this title; title 2 sections 501, 502; title 7 sections 2013, 2014; title 15 sections 18a, 57a, 78s, 78ggg, 789, 1193, 1203, 1262, 1410b, 1474, 1476, 1912, 2058, 2079, 2309, 2603, 2604, 2605, 2618; title 16 sections 971d, 1381, 1463, 1533, 1535, 1604, 1821, 1855; title 18 sections 4201, 4218; title 20 sections 1132a-5, 1232; title 21 sections 358, 360d, 463, 1176; title 29 section 982; title 30 sections 811, 936, 1211; title 33 sections 1322, 1504; title 40 section 333; title 41 sections 43a, 47; title 42 sections 300g-1, 300h, 300k-1, 4905, 5403, 5506, 5918, 6306, 6392, 7191, 7607; title 43 section 1740; title 45 sections 431, 502, 562, 715; title 49 sections 13, 15a, 1348, 1387, 1804; title 50 App. sections 2158, 2158a, 2168, 2407.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
554	Sections 552b, 556, 557, 8124 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1, 2048; title 15 sections 78d-1, 2064, 2066, 2605, 2615; title 16 sections 1540, 1856, 1858; title 18 section 4218; title 19 section 160; title 21 sections 321, 360e; title 29 sections 216, 659; title 30 sections 185, 804, 811, 815, 817, 818, 821, 938, 1264, 1268, 1275, 1293; title 33 sections 919, 1367, 1504; title 42 sections 2000e-17, 4910, 6971, 7419, 7607; title 43 section 1766; title 45 section 432; title 47 section 409; title 50 App. sections 2168, 2405, 2407.
555	Title 2 sections 501, 502; title 18 section 4218; title 19 section 160; title 42 section 7607; title 50 App. sections 2168, 2405, 2407.
556	Sections 553, 554, 557, 558, 706, 3105 of this title; title 2 sections 501, 502, title 7 sections 86, 87e, 87f-1; title 15 sections 57a, 2605; title 18 section 4218; title 19 section 160; title 21 sections 321, 376; title 22 section 1037a; title 30 section 811; title 39 sections 404, 3624, 3661; title 42 sections 2241, 7171, 7607; title 47 section 155; title 50 App. sections 2168, 2405, 2407.
557	Sections 553, 554, 556, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1; title 15 sections 57a, 2605; title 18 section 4218; title 19 section 160; title 21 section 321; title 30 sections 811, 823; title 39 sections 404, 3624, 3661; title 42 sections 2241, 7607; title 49 section 17; title 50 App. sections 2168, 2405, 2407.
558	Title 2 sections 501, 502; title; title 42 section 2236; title 45 section 312; title 50 App. sections 2168, 2407.
559	Title 2 sections 501, 502; title 30 sections 823, 956; title 50 App. sections 2168, 2407.
701	Title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 20 section 1683; title 25 section 954; title 30 section 956; title 42 sections 5405, 6105, 6976; title 50 App. sections 2168, 2406.
702	Title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 19 section 160; title 25 section 954; title 42 section 5405; title 50 App. sections 2168, 2406.
703	Title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405; title 50 App. sections 2168, 2406.
704	Title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 25 section 954; title 42 sections 5405, 7174, 7194; title 50 App. sections 2168, 2406.
705	Title 2 sections 501, 502; title 7 section 2149; title 15 sections 78y, 1262, 1474; title 16 section 1855; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405, 7172; title 50 App. sections 2168, 2406.
706	Title 2 sections 501, 502; title 7 sections 2048, 2149; title 15 sections 57a, 78y, 757, 760a, 1262, 1474, 2618; title 16 sections 1855, 1858; title 18 sections 843, 4218; title 22 section 1037c; title 25 section 954; title 30 section 956; title 39 section 3628; title 42 sections 5405, 6976, 7607; title 45 section 726; title 47 section 402; title 50 App. sections 2168, 2406.
901	Section 903 of this title.
903	Sections 902, 904, 909, 910 of this title.
904	Section 903 of this title.
905	Section 903 of this title.
909	Sections 903, 908, 910 of this title; title 22 section 2587.
910	Sections 908, 909, 911 of this title; title 22 section 2587.
911	Sections 908, 909, 912 of this title; title 22 section 2587.
912	Sections 908, 909 of this title; title 22 section 2587; title 42 section 2941.
1302	Sections 1104, 1303 of this title; title 18 section 1917; title 22 section 1438; title 38 sections 106, 4202.
1502	Sections 1503, 1504, 1505, 1506 of this title; title 42 sections 2930e, 2943.
2107	Sections 8331, 8701, 8901 of this title; title 2 section 31b-5; title 26 section 7448; title 31 section 43b.
2108	Sections 3305, 3309, 3318 of this title; title 22 sections 1234, 1438; title 32 section 709; title 38 sections 106, 4202; title 39 section 1005.
3104	Sections 3325, 5361 of this title; title 49 section 1655.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
3105	Sections 554, 556, 559, 1305, 3344, 4301, 5108, 5335, 5362, 7521 of this title; title 15 sections 327, 1715; title 29 sections 661, 792; title 30 sections 804, 823, 932a; title 33 sections 873, 919; title 42 sections 2000e-4, 3608; title 47 section 410.
3106	Title 22 section 810.
3109	Sections 575, 5102, 5306, 7342 of this title; title 7 section 16; title 12 section 2405; title 15 sections 205i, 634d, 636, 1942, 2206, 2218, 2451; title 16 sections 469b, 470m, 1052, 1406; title 17 section 805; title 18 sections 3153, 3168, 4204, 4352; title 19 sections 1331, 2171; title 20 sections 959, 1221e, 1233d, 1505, 2012, 2106; title 21 section 1116; title 22 sections 272a, 277d-3, 280b, 280i, 280k, 290b, 290f, 2024, 2083, 2102, 2103, 2386, 2512, 2581, 2847, 2873, 2905, 3106; title 23 section 303; title 25 section 640d-11; title 28 section 625; title 29 sections 656, 671, 676, 1302; title 31 sections 52c, 1154; title 40 sections 71a, 822, 873; title 42 sections 242l, 286d, 287b, 300k-3, 1962a-4, 1975d, 2000g, 2473, 2942, 3035a, 3211, 3525, 3765, 4343, 5042, 5149, 5612, 5816, 6616, 7171, 7211, 7233; title 43 section 1616; title 44 section 3319; title 49 sections 20, 26b, 1343, 1638, 1657, 1903; title 50 App. sections 2158, 2158a, 2169.
3305	Title 22 section 1438; title 38 sections 106, 4202; title 40 section 42.
3306	Section 3302 of this title; title 22 section 1438; title 38 sections 106, 4202.
3308	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3309	Sections 3313, 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3310	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3311	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3312	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3313	Sections 3314, 3315, 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3314	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
3315	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3316	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3317	Sections 3110, 3318, 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3318	Section 3320 of this title; title 22 section 1438; title 38 sections 106, 4202.
3319	Title 22 section 1438; title 38 sections 106, 4202.
3320	Title 22 sections 1234, 1438; title 38 sections 106, 4202.
3324	Section 7154 of this title; title 10 sections 4540, 7212, 9540; title 42 section 7231.
3331	Sections 2903, 2904, 2905, 2906, 3332, 5792 of this title; title 2 section 64-1; title 10 sections 591, 5792; title 14 sections 273, 797; title 22 section 2504; title 33 section 854a-2; title 42 section 1971; title 50 App. section 1597.
3332	Section 5507 of this title; title 42 section 211.
3344	Sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 30 section 823; title 42 sections 2000e-4, 3608, 3755.
3351	Title 22 section 1438; title 38 sections 106, 4202.
3363	Title 22 section 1438; title 38 sections 106, 4202.
3501	Sections 3502, 6303 of this title; title 10 section 1586; title 22 section 1438; title 38 sections 106, 4202.
3502	Title 10 section 1586; title 22 section 1438; title 32 section 709; title 38 sections 106, 4202.
3503	Title 10 section 1586; title 22 section 1438; title 38 sections 106, 4202.
3504	Section 3501 of this title; title 22 section 1438; title 38 sections 106, 4202.
5102	Sections 5101, 5103, 5331, 5341, 5342, 5348, 5349 of this title; title 10 sections 4540, 7212, 9540; title 20 section 903; title 29 section 218; title 31 section 665a.
5108	Sections 3324, 5109, 5114 of this title; title 2 section 166; title 10 sections 4540, 7212, 9540; title 15 section 2053; title 20 sections 1221e, 1221f; title 21 section 1115; title 22 sections 2193, 2385, 2454; title 29 sections 661, 1137; title 30 section 1211; title 42 sections 3774, 7231; title 45 section 231f.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
5305	Sections 5301, 5307, 5318 of this title; title 2 sections 31, 60a-1, 60a-2, 84a-1; title 3 section 104; title 28 section 461.
5312	Title 12 section 1723a; title 39 section 1003; title 42 sections 7211, 7291; title 45 sections 543, 712.
5313	Section 8704 of this title; title 22 sections 866, 2847; title 23 section 303; title 42 sections 210, 1864, 4346, 6612, 7132, 7211, 7291, 7293.
5314	Title 2 sections 60a-1, 282b, 474, 601; title 15 section 205i; title 22 section 866; title 38 section 4107; title 42 sections 1864a, 5041, 5871, 5872, 6612, 7132, 7134, 7211, 7291, 7293; title 50 App. section 2169.
5315	Section 5317 of this title; title 2 sections 285e, 286e, 437c, 474, 601; title 15 sections 790b, 2204; title 20 section 1221b; title 22 sections 290f, 866, 867; title 23 section 303; title 28 section 548; title 30 sections 1121, 1211; title 31 section 52b; title 38 section 4107; title 42 sections 1975b, 3525, 4346, 4532, 5041, 5553, 5871, 5872, 7002, 7132, 7133, 7134, 7135, 7136, 7138, 7139, 7211, 7291, 7293; title 44 section 303; title 50 App. section 2168.
5316	Section 5317 of this title; title 2 sections 60a-2, 74a-3, 84a-1, 166, 282b, 353, 437c; title 12 section 1723a; title 15 sections 2204; title 20 sections 964, 1221e; title 22 sections 866, 2872; title 23 section 303; title 26 section 6103; title 28 sections 332, 548, 603, 625; title 31 section 1154; title 38 section 4107; title 39 section 206; title 42 sections 907a, 1864a, 2996d, 3525, 5041, 5871, 5872, 7138, 7211, 7232, 7291, 7293; title 43 section 1616; title 44 sections 303, 3319; title 50 App. section 2168.
5332	Sections 575, 3109, 5303, 5364, 6301 of this title; title 2 sections 60a-1, 60a-2, 166, 353, 414, 416, 437c, 476, 601; title 7 sections 16, 3127; title 10 sections 867, 4540, 7212, 9540; title 12 sections 635a, 1749bbb-1, 2405; title 15 sections 205h, 205i, 2412, 2451; title 16 sections 470m, 1401, 1403; title 17 section 802; title 18 sections 3153, 4202, 4204, 4351, 4352; title 19 sections 1331, 2171; title 20 sections 955, 957, 963, 1102, 1135c-1, 1221e, 1221f, 1233c, 1233d, 1402, 1505, 1532, 2011, 2012, 2103, 2390; title 21 sections 113a, 376; title 22 sections 1037a, 2385, 2386, 2512, 2903, 2905; title 25 section 640d-11; title 26 section 4946; title 28 sections 332, 548, 625; title 29 sections 183, 656, 661, 676, 774, 792; title 30 sections 812, 938, 1229, 1315; title 31 section 52c; title 32 section 709; title 33 sections 906, 1128, 1320, 1325, 1374; title 37 section 1009; title 40 section 166b-1; title 41 section 351; title 42 sections 300j-10, 1320a-1, 1320c-12, 1395oo, 1863, 1873, 1962a-4, 1962b-4, 1975d, 2968, 3015, 3525, 3765, 3774, 4365, 4372, 4845, 5042, 5612, 5619, 5651, 5841, 6614, 6616, 6632, 7211, 7213, 7231, 7233, 7546, 7623; title 44 section 3319; title 45 section 715; title 49 section 26b; title 50 App. section 2169.
5333	Title 7 section 84; title 10 sections 4540, 7212, 9540.
5361	Section 3104 of this title; title 49 section 1343.
5362	Sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 30 section 823; title 42 sections 2000e-4, 3608.
5504	Sections 5332, 5505 of this title; title 2 section 142e; title 40 sections 166b-1d, 166b-1e.
5505	Title 2 section 142e; title 26 section 7443.
5532	Sections 5531, 8116 of this title; title 22 section 2584; title 39 section 410; title 42 section 2038.
5533	Section 5531 of this title; title 2 section 162; title 13 section 23; title 15 section 327; title 20 section 907; title 22 section 2396; title 33 section 873; title 39 section 1001.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
5701	Title 2 section 68b; title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474.
5702	Section 5724a of this title; title 2 sections 58, 476; title 7 sections 3128, 3194; title 16 section 971h; title 22 sections 1474, 2396; title 26 sections 274, 4941; title 31 section 1032; title 36 section 121; title 38 section 111; title 42 section 2477.
5703	Sections 573, 5306 of this title; title 2 sections 175, 352, 475; title 7 sections 2233, 3128, 3194; title 12 sections 635a, 1701j-2, 1701y, 1749bbb-1, 1752a; title 15 sections 637, 1204, 1475, 1942, 2077; title 16 sections 1a-2, 1105, 1156, 1401, 1403, 1460, 1604; title 18 section 4351; title 19 section 2171; title 20 sections 955, 957, 959, 963, 1221e, 1233c, 1505, 2012; title 21 sections 360c, 360d, 360e, 360j, 376, 1115; title 22 sections 287*o*, 287q, 290f, 1471, 1474, 2102, 2103, 2199, 2351, 2456, 2581, 2672b, 2872, 2873, 2903, 2905, 3106; title 25 section 305; title 29 sections 308e, 656, 774, 792, 952, 1142, 1302; title 30 sections 663, 812, 1229, 1315; title 33 sections 426, 857-16, 1320; title 36 section 121; title 40 sections 333, 486, 822, 872; title 41 section 46; title 42 sections 210, 242*l*, 254j, 286a, 286f, 287f, 289c-3a, 289c-7, 295d-2, 300d-8, 300j-5, 300k-3, 907, 1108, 1314, 1320a-1, 1320c-12, 1395dd, 1870, 1873, 1975b, 2473, 2495, 2689q, 2942, 3015, 3211, 3535, 3609, 3742, 3747, 3765, 4025, 4532, 4553, 4768, 4914, 5032, 5042, 5404, 5651, 5661, 6007, 6614, 6632, 7234, 7417, 7546, 7623; title 44 section 3318; title 46 section 1482; title 47 section 396; title 49 sections 1343, 1657, 1673; title 50 App. section 2168.
5704	Sections 5707, 5724 of this title; title 2 section 476; title 7 sections 3128, 3194; title 13 sections 24, 26; title 16 section 971h; title 22 section 1474; title 30 sections 812, 1229; title 33 section 1320; title 39 section 111; title 42 section 2477.
5705	Section 5724 of this title; title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474.
5706	Title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES—Cont.

Section	*Referred to in*
5707	Sections 5702, 5704, 5709 of this title; title 7 sections 3128, 3194; title 16 section 971h; title 22 section 1474; title 40 section 872.
5731	Title 2 section 476; title 16 sections 916*l*, 961, 971h, 1032; title 22 sections 287e, 287r, 1157, 2024; title 42 sections 2477, 4277; title 50 section 403e.
5911	Title 16 section 754; title 29 section 993d.
6103	Section 6104 of this title; title 21 section 1053; title 29 section 1201; title 38 section 3020; title 42 section 909.
6308	Section 6312 of this title; title 46 section 1126.
7324	Sections 7325, 7326, 7327 of this title; title 42 sections 1973d, 2000e-4; title 50 App. section 463.
7342	Title 22 sections 2458a, 2694.
7501	Title 50 section 403.
7511	Sections 7501, 7701 of this title; title 22 section 1438; title 32 section 709; title 38 sections 106, 4202.
7512	Sections 3315, 7701 of this title; title 22 section 1438; title 32 section 709; title 38 sections 106, 4202; title 50 sections 832, 833.
7521	Sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 30 section 823; title 39 section 3601; title 42 sections 2000e-4, 3608.
7532	Sections 3571, 7312, 7501, 7512 of this title; title 50 sections 832, 833.
7701	Title 22 section 1438; title 38 sections 106, 4202.
8101	Sections 3373, 3374, 7902, 8110, 8118, 8133, 8191, 8192 of this title; title 16 sections 1a-6, 18i, 558c; title 22 section 2679a; title 29 sections 926, 993d; title 30 section 902; title 42 sections 3796b, 5055.
8122	Sections 8118, 8121 of this title.
8147	Title 42 sections 1701, 1704, 1705.
8334	Sections 8331, 8332, 8333, 8339, 8342, 8344 of this title; title 12 sections 1723a, 2227; title 22 section 889; title 28 sections 611, 627; title 40 section 881.
8344	Section 8339 of this title; title 11 section 68; title 22 sections 2512, 2584; title 28 sections 625, 634.
8348	Section 8331 of this title; title 20 section 125; title 25 section 450i; title 39 section 1005; title 42 section 246.

TITLE 5—APPENDIX

Section	*Referred to in*
9	Title 7 sections 2286, 2289.
10	Title 7 section 2287; title 19 section 2155; title 20 section 1233h; title 42 section 6273; title 50 App. section 2158a.
11	Title 19 section 2155; title 42 section 6273; title 50 App. section 2158a.
14	Title 29 section 1142; title 42 sections 218, 254j, 292b, 300j-5, 300k-3.

TITLE 7—AGRICULTURE

Section	*Referred to in*
74	Sections 79, 79a, 86, 87e, 87f-2 of this title.
79	Sections 75, 79a, 79b, 84, 87b, 87f-1, 87h of this title.
87f-1	Sections 87b, 87h of this title.
136w	Sections 136, 136d, 136j, 137s of this title; title 42 section 4365.
226	Title 15 sections 1607, 1681s, 1691c, 1692*l*.
227	Title 15 sections 45, 1607, 1681s, 1691c, 1692*l*.
329	Section 3152 of this title.
331	Sections 361d, 3195, 3221, 3222 of this title.
343	Sections 3175, 3221 of this title.
361c	Sections 390c, 3222 of this title.
390	Section 3311 of this title.
390a	Sections 390b, 390c of this title.
390c	Sections 390d, 390h of this title.
390j	Sections 390b, 3311 of this title.
427i	Sections 361a, 427i, 1623a, 1629 of this title; title 21 section 113a.
450i	Sections 390c, 3122, 3222, 3241, 3311, 3315 of this title.
612c	Sections 624, 1392, 1421, 1424, 1431b, 1641, 1855, 2627 of this title; title 12 section 1150a; title 15 sections 713c, 713c-2, 713c-3; title 22 section 1922; title 40 section 474; title 42 sections 1755, 1758, 1761, 1762, 1762a, 1766, 1777, 1786, 3045f, 5180.
612c-3	Section 87f-2 of this title; title 50 App. sections 2403, 2409.
1291	Title 40 section 474.
1301	Sections 602, 1111, 1301a, 1330, 1445, 1782 of this title; title 43 sections 620c, 1524.
1307	Section 1308 of this title.
1308	Sections 1444c, 1445b of this title.
1309	Section 1446 of this title.
1352	Section 1441 of this title.
1359	Section 1445c of this title.
1421	Sections 1428, 1444, 1444b, 1444c, 1445c, 1448 of this title.
1423	Sections 1428, 1445c of this title.

TITLE 7—AGRICULTURE—Cont.

Section	*Referred to in*
1427	Sections 1359, 1427a, 1428, 1433, 1445e, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1712, 1721, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b, 1744, 1853 of this title; title 50 App. section 2093.
1427a	Section 1445e of this title.
1428	Section 1444 of this title.
1431	Sections 1428, 1431b, 1431c, 1431d, 1446a, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1712, 1721, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b of this title; title 22 section 1922; title 42 sections 1758, 1761, 1762a, 1766, 1777, 3045f.
1444	Sections 1344, 1348, 1349, 1350, 1377, 1427, 1428 of this title.
1444b	Sections 1444a, 1444c of this title.
1445a	Sections 1379b, 1379c, 1445b of this title.
1445c	Section 1359 of this title.
1446a	Section 1447 of this title.
1446d	Section 1447 of this title.
1448	Sections 1446, 1447, 1449 of this title.
1449	Sections 1446, 1447 of this title.
1622	Title 40 section 474.
1702	Section 1707 of this title.
1703	Sections 1707, 1708, 1727d of this title.
1706	Section 1707 of this title.
1709	Sections 1706, 1726, 1727, 1732, 1736c, 1736e, 1743 of this title.
1727b	Sections 1727a, 1727c, 1727f of this title.
1727e	Section 1727c of this title.
1731	Sections 1707, 1721, 1727c of this title.
1736	Sections 1704, 1706, 1727 of this title.
1736b	Sections 1707, 1726, 1727f of this title.
2012	Sections 2019, 2020 of this title.
2013	Sections 2012, 2014 of this title.
2014	Sections 2015, 2017, 2020, 2026; title 43 section 1626.
2015	Sections 2020, 2026 of this title.
2016	Section 2024 of this title.
2017	Section 2026 of this title.
2018	Section 2023 of this title.
2019	Title 42 section 4728.
2020	Sections 2012, 2025 of this title.
2021	Section 2023 of this title.
2022	Section 2023 of this title.
2023	Sections 2018, 2021 of this title.
2026	Section 2027 of this title.
2027	Section 2013 of this title.
2106	Sections 2105, 2113, 2116 of this title.
2156	Sections 2153, 2154; title 39 section 3001.
2217	Section 2218 of this title; title 38 section 4202.

TITLE 7—AGRICULTURE—Cont.

Section	*Referred to in*
2240	Title 38 section 4202.
2267	Section 1427a of this title
2282	Section 2287 of this title.
2285	Section 2287 of this title.
2287	Section 2285 of this title.
2288	Sections 2284, 2289 of this title.
2662	Sections 2663, 2664, 2670 of this title.
2669	Section 3311 of this title.
3101	Section 3102 of this title
3122	Section 3125 of this title.
3123	Section 3125 of this title.
3125	Section 3123 of this title.
3152	Section 3311 of this title.
3154	Section 3311 of this title.
3171	Section 3177 of this title.
3177	Section 3174 of this title.
3191	Section 3199 of this title.
3195	Sections 3198, 3199 of this title.
3196	Section 3200 of this title.
3222	Section 390c of this title.
3261	Section 3262 of this title.
3262	Section 3261 of this title.
3403	Section 3413 of this title.
3404	Section 3405 of this title.
3405	Sections 3402, 3404, 3413 of this title.
3406	Section 3405 of this title.
3413	Sections 3403, 3405 of this title.

TITLE 8—ALIENS AND NATIONALITY

Section	*Referred to in*
1101	Sections 1102, 1151, 1151a, 1152, 1153, 1154, 1181, 1182, 1184, 1184a, 1201, 1251, 1254, 1255b, 1257, 1258, 1282, 1303, 1481 of this title; title 2 section 441e; title 7 section 2015; title 18 section 613; title 22 sections 1474, 2395, 2508; title 26 sections 871, 872, 1441, 3121, 3231, 3306; title 42 section 410; title 45 sections 231, 351; title 50 App. Sections 453, 456.
1153	Sections 1151, 1152, 1154, 1182, 1254, 1255 of this title; title 7 section 2015; title 26 section 1153; title 42 section 1382c.
1182	Sections 1101, 1102, 1153, 1181, 1183, 1201, 1222, 1223, 1224, 1225, 1226, 1251, 1255, 1259, 1282, 1284, 1322, 1327 of this title; title 7 section 2015; title 26 section 3304; title 42 section 1382c.
1226	Sections 1105a, 1153, 1155, 1323 of this title; title 18 section 4113.
1252	Sections 1105a, 1182, 1184, 1282 of this title; title 18 section 4113; title 22 sections 618, 2508; title 40 section 613.
1253	Sections 1184, 1330 of this title; title 7 section 2015; title 22 sections 618, 2508.
1254	Section 1256 of this title; title 18 section 4113.
1259	Sections 1256, 1444 of this title; title 7 section 2015.
1425	Sections 1433, 1434 of this title.

TITLE 10—ARMED FORCES

Section	*Referred to in*
101	Title 14 section 438; title 18 section 232; title 33 section 857-1; title 39 section 3401; title 42 section 7235.
511	Title 5 section 2108; title 14 section 765; title 38 sections 1602, 1652, 1701; title 50 App. section 456.
1553	Title 38 sections 1662, 3010, 3103.
2107	Sections 2104, 2106, 2133, 5504, 5652b, 6387 of this title; title 37 sections 209, 415, 416, 422.
2131	Sections 2132, 2133 of this title.
2132	Section 2131 of this title.
2276	Title 50 App. section 643.
2304	Sections 2305, 2306, 2310, 2311 of this title; title 50 sections 403c, 1432, 1651.
2305	Sections 2302, 2356 of this title; title 42 section 1594; title 50 section 403c.
2306	Sections 2310, 2311 of this title; title 50 section 403c.
2307	Sections 2310, 2311 of this title; title 50 section 403c.
2308	Title 50 section 403c.
2309	Title 50 section 403c.
2312	Title 50 section 403c.
2313	Section 2310 of this title; title 50 section 403c.
2353	Sections 138, 2356 of this title; title 42 sections 241, 6981, 7404.
2382	Section 7343 of this title; title 50 App. section 1212.
2682	Section 2674 of this title.
3313	Title 50 section 1651.
4774	Section 2388 of this title; title 29 section 982; title 42 sections 1592d, 1594h, 2942, 5042; title 48 section 1409b; title 50 section 491.
5081	Section 5231 of this title.
5442	Sections 5445, 5446, 5451, 5778 of this title.
5443	Sections 5445, 5446, 5451, 5778 of this title
5447	Sections 5455, 5780 of this title.
5448	Sections 5455, 5780 of this title.
6386	Title 50 section 1651.
7300	Title 50 App. section 1212.
7304	Sections 7305, 7306, 7307 of this title.
7433	Section 7432 of this title; title 16 section 470h; title 30 section 191; title 43 section 1601.
8313	Title 50 section 1651.
9774	Section 2388 of this title; title 42 section 1592d; title 48 section 1409b; title 50 section 491.

TITLE 11—BANKRUPTCY

Section	*Referred to in*
205	Sections 11, 107, 205a, 208, 506 of this title; title 26 sections 108, 302, 354, 371, 374, 4382; title 45 sections 661, 662, 666, 702, 717, 719, 721, 743, 744, 745, 791, 825, 826, 831; title 49 section 20b.

TITLE 12—BANKS AND BANKING

Section	*Referred to in*
95a	Sections 95b, 212, 213 of this title; title 31 section 1141.
1426	Sections 1422, 1430, 1730, 2804 of this title; title 15 sections 1607, 1681s, 1691c, 1692*l*.
1437	Section 1427, 2804 of this title; title 15 sections 1607, 1681s, 1691c, 1692*l*.
1464	Sections 1430, 1454, 1462, 1465, 1466a, 1717, 1725, 1729, 2804, 2805 of this title; title 15 sections 18a, 1607, 1681s, 1691c, 1692*l*.
1701j-2	Title 42 sections 1452b, 6832.
1701q	Sections 1701s, 1715*l*, 1715v, 1715z-1 of this title; title 42 sections 1402, 1436, 1437c, 1437f, 1438, 1439, 1485.
1701z-8	Section 1701z-2 of this title; title 42 sections 6325, 6327, 7154.
1703	Sections 1706d, 1709-1, 1715h, 1715k, 1715t, 1715w, 1715z, 1715z-5, 1735c of this title; title 42 section 1490g.
1708	Sections 1709, 1735 of this title.
1709	Sections 1706c, 1707, 1708, 1709-1, 1710, 1711, 1712, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715q, 1715x, 1715w, 1715y, 1715z-2, 1715z-3, 1715z-10, 1723e, 1735, 1735b, 1735c, 1748h-1, 1748h-2, 1750b, 2703 of this title; title 15 section 77d; title 38 section 1803; title 42 sections 1485, 1487.
1713	Sections 24, 1464, 1709-1, 1710, 1715c, 1715e, 1715k, 1715*l*, 1715r, 1715v, 1715w, 1715x, 1715y, 1715z-3, 1715z-6, 1715z-7, 1723e, 1731b, 1735, 1743, 1744, 1748b, 1748h-2, 1749aa, 1749hh, 1749aaa-2, 1750g of this title; title 29 section 773; title 42 sections 1594a, 3041e.
1715c	Sections 1715e, 1750b of this title; title 42 section 3310.
1715e	Sections 1709-1, 1710, 1715c, 1715n, 1715q, 1715r, 1715y, 1715z, 1715z-6, 1717, 1720, 1723e, 1731b, 1735c of this title.

TITLE 12—BANKS AND BANKING—Cont.

Section	*Referred to in*
1715k	Sections 1709, 1709-1, 1713, 1715c, 1715*l*, 1715*o*, 1715q, 1715r, 1715w, 1715z-2, 1715z-5, 1717, 1720, 1731b of this title.
1715*l*	Sections 1701s, 1701u, 1701z-4, 1709-1, 1713, 1715c, 1715h, 1715m, 1715n, 1715*o*, 1715r, 1715z, 1715z-1, 1715z-2, 1717, 1720, 1731b, 1735b of this title; title 26 section 1250; title 40 section 484b; title 40 App. section 207; title 42 sections 1452b, 1457, 2982c.
1715m	Section 1715q of this title; title 42 section 1594a-1.
1715v	Sections 1701q, 1701s, 1709-1, 1715c, 1715q, 1715r of this title.
1715w	Sections 1709-1, 1715c of this title.
1715z-1	Sections 1701s, 1701u, 1709-1, 1715c, 1715h, 1715r, 1715z to 1715z-3, 1715z-6, 1715z-9, 1717, 1720, 1735c of this title; title 26 section 1250; title 40 section 484b; title 42 sections 1439, 1457, 1483, 1490a, 1490c, 2982c.
1715z-3	Sections 1709, 1715v of this title.
1724	Sections 1425a, 1425b, 1470, 1727, 1728, 1832, 2902 of this title; title 15 section 80a-6; title 18 section 2113; title 26 section 7701; title 31 section 1052.
1730	Sections 1425, 1425a, 1727, 2804 of this title; title 15 sections 1607, 1691c, 1692*l*.
1730a	Sections 1725, 2902 of this title; title 15 section 18a.
1757	Sections 1752, 1761c of this title.
1813	Sections 265, 1817, 1832, 1842, 2804, 2902 of this title; title 29 section 1134; title 31 section 1052.
1818	Sections 375a, 1831b, 2804, 2805 of this title; title 15 sections 57a, 78*o*-4, 78q-1, 1607, 1681s, 1691c, 1692*l*.
1828	Section 2902 of this title; title 15 section 18a.
1841	Sections 1842, 1843, 1971 of this title; title 15 section 78c; title 26 sections 1101, 1103.
1842	Sections 1849, 1850, 2902 of this title; title 15 section 18a.
1843	Sections 371c, 1841, 1850 of this title; title 15 section 18a; title 26 sections 1101, 1103, 6158.

TITLE 13—CENSUS

Section	*Referred to in*
9	Sections 8, 23, 214 of this title; title 42 sections 1973aa-5, 2000f, 6274.

TITLE 15—COMMERCE AND TRADE

Section	*Referred to in*
2	Section 18a of this title; title 12 section 1849.
8	Sections 9, 11 of this title; title 10 section 7430; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 5417, 5909, 6202; title 43 section 1770; title 45 section 791; title 49 section 5c; title 50 App. sections 1941a, 2158.
9	Section 10 of this title; title 10 section 7430; title 30 section 184; title 33 section 1502; title 40 section 488; title 42 sections 5417, 5909, 6202; title 43 section 1770; title 45 section 791; title 49 section 5c; title 50 App. sections 1941a, 2158.
12	Sections 1291, 1311 of this title; title 19 section 2033; title 46 section 885; title 49 sections 5b, 1384.
49	Section 756 of this title; title 7 sections 222, 610, 2046, 2146; title 21 sections 467d, 677, 1051; title 26 section 5274; title 27 section 202; title 29 sections 177, 209, 308, 521, 1134; title 33 section 944; title 42 section 7255; title 50 App. section 1983.
77d	Section 80a-24 of this title; title 11 section 205; title 49 section 20b.
77e	Sections 77b to 77d, 77j, 77*l*, 77ddd, 80a-24 of this title; title 11 sections 664, 793, 918; title 45 section 791.
78*l*	Sections 78d-1, 78k-1, 78*l*-1, 78m, 78n, 78o, 78p, 78q-1, 78dd-1, 78hh, 78hh-1 of this title; title 16 section 824c.
78*o*	Sections 77nnn, 78c, 78*l*, 78m, 78*o*-1, 78*o*-2, 78*o*-4, 78r, 78s, 78u, 78y, 78cc, 78dd-1, 78ff, 78hh, 78hh-1, 78ccc, 78*lll*, 80a-8, 80a-22, 80a-29, 80a-35, 773 of this title.
78dd-1	Sections 78dd-2, 78ff of this title.
176a	Title 42 section 6274.
634	Sections 633, 693 of this title.
636	Sections 631, 633, 634, 636a, 637, 644 of this title; title 7 sections 1964; title 19 section 2345; title 33 section 701n; title 42 section 3142-1.

TITLE 15—COMMERCE AND TRADE—Cont.

Section	*Referred to in*
681	Sections 662, 683, 687j of this title; title 42 sections 2985a, 5305.
694b	Section 644 of this title.
712a	Title 42 section 1406a.
717	Title 42 section 7172.
717c	Title 42 section 7172; title 50 section 167i.
717d	Title 42 section 7172; title 50 section 167i.
717e	Title 42 section 7172.
717f	Title 42 section 7172; title 49 section 1676.
753	Sections 754 to 758, 760 to 760g, 764 of this title; title 42 sections 6241, 6263, 6271, 7172.
757	Sections 753, 758, 760a, 760g of this title; title 42 section 7172.
760a	Sections 760f, 764 of this title; title 42 section 7172.
771	Title 42 section 6892, 7137.
772	Sections 774, 790 of this title; title 42 section 6274.
774	Title 42 section 7267.
776	Title 42 sections 6273, 7234; title 50 App. section 2158a.
790b	Title 42 section 7135.
790d	Title 42 section 7135.
790h	Title 42 section 7135.
792	Sections 793, 797 of this title; title 42 sections 7411, 7413, 7420, 7473.
796	Sections 772, 790, 797 of this title; title 42 sections 5917, 6274, 6299, 6346, 6381, 7135.
1681a	Sections 1692d, 1692e of this title; title 26 section 7609.
1681b	Sections 1681a, 1681e, 1681f, 1692d of this title.
1692b	Sections 1692c, 1692d, 1692e of this title.
1692f	Section 1692a of this title.
1692k	Section 1692j of this title.
1692*l*	Section 1692m of this title.
2503	Sections 2502, 2504, 2507 of this title; title 42 section 2473.
2504	Section 2507 of this title; title 42 section 2473.
2505	Section 2506 of this title; title 42 section 2473.
2506	Sections 2510, 2512, 2513 of this title; title 42 section 2473.
2507	Section 2511 of this title; title 42 section 2473.
2508	Title 42 section 2473.
2509	Title 42 section 2473.
2608	Title 42 section 7458.

TITLE 16—CONSERVATION

Section	*Referred to in*
431	Sections 407, 432, 434, 1133 of this title; title 43 section 1714.
432	Sections 434, 1133 of this title; title 20 section 78a; title 43 section 1714.
433	Sections 432, 434, 1133 of this title; title 20 section 78a; title 43 section 1714.

TITLE 16—CONSERVATION—Cont.

Section	*Referred to in*
460*l*-5	Sections 460*l*-7, 460*l*-10 of this title; title 40 section 885.
460*l*-8	Section 460*l*-17 of this title; title 42 sections 3338, 4519.
460*l*-14	Sections 460*l*-17, 460*l*-18 of this title.
532	Sections 533, 534, 536, 1608 of this title; title 43 section 1770.
538	Sections 533, 534, 536, 1608 of this title; title 43 section 1770.
582a-2	Title 7 section 390c.
590h	Sections 590g, 590h-4, 590i, 590*l*, 590m, 590n, 590o, 590p, 590q-3, 1507, 1508 of this title; title 5 sections 3502, 5307, 5334, 5595, 6312, 8331, 8332, 8701, 8901; title 7 sections 1301, 1314c, 1330, 1388, 1391, 1392, 1441, 1444, 1444b, 1838; title 12 section 1150a; title 40 app. section 203.
590p	Sections 590h, 590h-4, 590n, 590q-3, 1501 of this title; title 7 sections 1330, 1388, 1391, 1392; title 12 section 1150a.
590q	Sections 590h, 590h-4, 590n of this title; title 7 sections 1330, 1388, 1391, 1392; title 12 section 1150a.
668dd	Section 459j-4 of this title; title 43 section 1714.
797	Section 796, 828b of this title; title 42 section 7172.
824a	Title 42 section 7172.
825	Sections 825b, 828b of this title; title 42 section 7172.
825a	Sections 825b, 828b of this title; title 42 section 7172.
825c	Title 42 section 7177.
825e	Title 42 section 7172.
825f	Title 42 section 7172.
825g	Title 42 section 7172.
825h	Title 42 section 7172.
825j	Title 42 section 7177.
825k	Title 15 section 717m; title 39 section 3204; title 42 section 7172.
825*l*	Title 33 section 988; title 42 section 7172.
825m	Title 42 section 7172.
825n	Title 42 section 7172.
825o	Section 811 of this title; title 42 section 7172.
825s	Sections 825s-1, 825s-2 of this title; title 42 section 7152.
1006	Title 30 section 1265.
1131	Title 43 section 1702.
1132	Sections 90e-3, 228i-1, 271e, 272d, 273d, 459g-6, 459h-7, 459i-8, 459j-7, 460m-13, 460x-5, 460z-11, 460aa-4, 460dd-8, 460gg-5, 698d, 698*l* of this title; title 43 section 1782.
1133	Title 43 section 1782.
1276	Sections 460gg-13, 1275, 1278, 1279, 1280, 1283 of this title; title 30 section 1272.
1402	Section 1404 of this title.

TITLE 16—CONSERVATION—Cont.

Section	*Referred to in*
1604	Section 1611 of this title; title 43 section 1752.
1811	Section 1802 of this title; title 22 section 1980.
1812	Title 22 section 1980.
1824	Sections 1821, 1825, 1826, 1852, 1857 of this title.
1857	Sections 1821, 1824, 1826, 1858, 1859, 1860, 1861 of this title.
2004	Sections 2005, 2006 of this title.
2005	Section 2006 of this title.
2006	Section 2003 of this title.

TITLE 17—COPYRIGHTS

Section	*Referred to in*
102	Sections 103, 104, 301 of this title.
103	Sections 104, 301 of this title.
105	Title 15 section 290e.
106	Sections 107 to 110, 112 to 118, 201, 301, 501, 506, 602 of this title; title 2 section 170.
107	Sections 106, 108, 117, 118, 501, 504 of this title.
108	Sections 106, 117, 501, 602 of this title; title 2 section 170.
109	Sections 106, 117, 501 of this title.
110	Sections 106, 111, 112, 117, 118, 501 of this title.
111	Sections 106, 110, 117, 501, 510, 801, 804, 809 of this title.
112	Sections 106, 117, 501 of this title.
113	Sections 106, 117, 501 of this title.
114	Sections 106, 112, 117, 501 of this title.
115	Sections 106, 117, 501, 708, 801, 804 of this title.
116	Sections 106, 117, 501, 801, 804, 809 of this title.
117	Sections 106, 501 of this title.
118	Sections 106, 114, 117, 501, 504, 801, 804 of this title.
205	Sections 501, 708 of this title.
302	Sections 303, 305, 406, 708 of this title.
303	Sections 301, 305 of this title.
304	Sections 305, 408, 708 of this title.
401	Sections 403 to 405 of this title.
402	Sections 403 to 405 of this title.
403	Sections 404, 405 of this title.
405	Sections 406, 408 of this title.
406	Section 404 of this title.
407	Sections 408, 704, 708 of this title; title 2 section 170.
408	Sections 302, 405, 601, 704, 708, 710 of this title; title 2 section 170.
409	Sections 408, 506 of this title.
410	Section 708 of this title.
411	Sections 412, 501 of this title.
501	Sections 111, 115, 116, 411, 510, 602 of this title.
502	Sections 111, 115, 116, 411, 510 of this title.

TITLE 17—COPYRIGHTS—Cont.

Section	Referred to in
503	Sections 111, 115, 116, 411, 510 of this title.
504	Sections 111, 115, 116, 405, 411, 412, 510 of this title; title 28 section 1498.
505	Sections 111, 115, 116, 411, 412, 510 of this title.
506	Sections 111, 115, 116, 411, 509 of this title.
509	Sections 111, 115, 116, 411 of this title; title 18 section 2318.
510	Sections 111, 411 of this title.
601	Sections 409, 602, 708 of this title.
602	Sections 501, 603 of this title.
705	Section 708 of this title.
706	Sections 701, 708 of this title.
708	Sections 205, 407, 408, 704 to 706 of this title.
801	Sections 802, 804, 810 of this title.
802	Sections 118, 801 of this title.
803	Sections 808, 809 of this title.
810	Sections 116, 809 of this title.

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

Section	Referred to in
8	Title 7 section 2024; title 49 section 787.
202	Section 14 of this title; title 12 sections 209, 1457; title 26 section 4946; title 40 App. section 108; title 42 section 3188.
203	Sections 14, 202, 205, 206, 207 of this title; title 5 section 3374; title 12 section 1457; title 30 section 663; title 38 section 3402; title 40 App. section 108; title 42 sections 246, 1314, 3188; title 50 App. section 463.
205	Sections 14, 202, 206, 207 of this title; title 5 section 3374; title 12 section 1457; title 25 section 450i; title 30 section 663; title 38 section 3402; title 40 App. section 108; title 41 section 120; title 42 sections 246, 1314, 3188; title 50 App. section 463.
207	Sections 14, 202 of this title; title 5 section 3374; title 12 section 1457; title 25 section 450i; title 29 section 308e; title 30 section 663; title 38 section 3402; title 40 App. section 108; title 42 sections 246, 3188, 7216, 7218; title 50 App. section 463.
208	Sections 14, 202 of this title; title 5 section 3374; title 12 section 1457; title 40 App. section 108; title 42 sections 246, 3188, 7218.

TITLE 18—CRIMES AND CRIMINAL PROCEDURE—Cont.

Section	Referred to in
209	Sections 14, 202 of this title; title 2 section 162; title 5 sections 3102, 3343, 3374, 4111; title 7 section 2220; title 8 section 1353c; title 12 section 1457; title 30 section 663; title 40 App. section 108; title 42 sections 246, 1314, 1975d, 3188; title 45 section 362.
371	Section 14 of this title; title 12 section 1457; title 26 section 6531; title 42 section 3793; title 50 App. section 18.
792	Section 14 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.
793	Sections 14, 792, 1717 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.
794	Sections 14, 792, 798, 1717 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.
795	Sections 14, 796, 797 of this title; title 50 App. section 34.
796	Section 14 of this title; title 50 App. section 34.
797	Section 14 of this title; title 50 App. section 34.
798	Sections 14 of this title; title 5 section 8312; title 38 section 3505.
798	Section 14 of this title.
835	Sections 832, 834 of this title; title 46 section 170; title 49 section 1655.
953	Section 14 of this title; title 50 App. section 34.
1001	Section 14 of this title; title 12 section 1457; title 20 section 581; title 22 section 1623; title 29 section 916; title 31 section 1052; title 40 section 276c; title 42 sections 1874, 2000b-3, 2000c-6, 3426, 3792; title 43 section 1212.
1162	Title 25 sections 711e, 1323.
1621	Section 14 of this title; title 8 section 1357; title 30 section 49e; title 50 App. sections 19, 2255.
1905	Title 5 section 3374; title 15 sections 330b, 771, 773, 796, 1193, 1401, 1418, 1914, 1944, 1990d, 2055, 2217, 2613; title 26 section 7213; title 29 section 664; title 33 sections 1318, 1320, 1322, 1369, 1513; title 42 sections 263g, 263i, 300j-4, 4912, 5916, 6274, 6927, 7135, 7542, 7607, 7621; title 46 section 1463; title 49 sections 1681, 1905.
2279	Title 46 section 163.

TITLE 18—CRIMES AND CRIMINAL PROCEDURE—Cont.

Section	*Referred to in*
2381	Section 14 of this title; title 5 section 8312; title 38 section 3505; title 50 App. section 34.
2382	Section 14 of this title; title 5 section 8312; title 38 section 3505; title 50 App. section 34.
2383	Section 14 of this title; title 5 section 8312; title 8 section 1481; title 38 section 3505; title 50 App. section 34.
2384	Section 14 of this title; title 5 section 8312; title 8 sections 1251, 1481; title 38 section 3505; title 50 App. section 34.
2385	Section 14 of this title; title 5 section 8312; title 8 section 1481; title 38 section 3505; title 50 App. section 34.
2386	Title 22 section 612; title 50 App. section 34.
2387	Section 14 of this title; title 5 section 8312; title 38 section 3505; title 50 App. section 34.
2388	Sections 14, 1717, 2391 of this title; title 5 section 8312; title 8 section 1251; title 38 section 3505; title 50 App. sections 19, 34.
3006A	Sections 3162, 4109, 4214 of this title; title 28 section 753; title 42 section 3795; title 48 section 1694c.
3041	Sections 3042, 3152, 3156 of this title; title 16 sections 916g, 1031; title 25 section 5557.
3186	Section 4114 of this title.
3188	Section 4114 of this title.
3189	Section 4114 of this title.
3190	Section 4114 of this title.
3191	Section 4114 of this title.
3195	Sections 14, 4114 of this title.
3401	Title 7 section 1011; title 16 sections 460d, 460*l*-6a, 551, 670j, 1338; title 28 section 636; title 43 section 1733.
3653	Section 4104 of this title
4105	Section 4104 of this title.
4106	Section 4104 of this title.
4107	Section 4109 of this title; title 28 section 636.
4108	Title 28 section 636.
4109	Title 28 section 636.
4161	Section 4105 of this title.
4162	Section 4105 of this title; title 41 section 42.
4164	Sections 4105, 4201, 4205, 4210 of this title.
4165	Section 4105 of this title.
4166	Section 4105 of this title.
4201	Section 4106 of this title.
4202	Section 4106 of this title; title 21 section 848.
4203	Sections 4106, 4201, 4204, 4206, 4218, 5005 of this title.
4204	Section 4106 of this title.
4205	Sections 4106, 4201, 4208 of this title.

TITLE 18—CRIMES AND CRIMINAL PROCEDURE—Cont.

Section	*Referred to in*
4206	Sections 4106, 4215, 5017, 5041 of this title.
4207	Section 4106 of this title.
4208	Section 4106 of this title.
4209	Sections 4106, 4213, 4215 of this title.
4210	Sections 4106, 4211 of this title.
4211	Sections 4106, 4210, 4215 of this title.
4212	Section 4106 of this title.
4213	Sections 4106, 4214 of this title.
4214	Sections 4106, 4203, 4209, 4210, 4211, 4213, 4215 of this title.
4215	Section 4106 of this title.
4216	Section 4106 of this title.
4218	Section 4106 of this title.
5037	Section 5038 of this title.

TITLE 20—EDUCATION

Section	*Referred to in*
351b	Sections 351c, 351e, 352, 353, 354, 355b, 355c, 355e-1, 355e-2, 362, 363 of this title.
424	Section 403 of this title; title 42 sections 294, 295h-3d, 297a.
881	Sections 1202, 1232e, 1720, 1966, 2614 of this title; title 29 sections 892a, 981.
1070e	Section 1070e-1 of this title; title 38 section 246.
1078	Sections 1070c-4, 1071, 1072, 1073, 1075, 1078-1, 1080, 1081, 1082, 1084, 1085, 1087, 1087-1, 1087-2, 1088b-1 of this title.
1080	Sections 1075, 1078, 1078-1, 1079, 1085 of this title.
1085	Sections 1071, 1074, 1075, 1078, 1087-2, 1088f-1 of this title; title 42 sections 294d, 2753.
1087-1	Section 1078 of this title.
1132b	Section 1132b-1 of this title.
1132e	Sections 1132a-6, 1132d-11 of this title.
1141	Sections 1088, 2002, 2402 of this title; title 25 section 13; title 29 sections 892a, 981; title 30 section 1291; title 33 section 1262; title 39 section 3626; title 42 sections 3033, 3781.
1221e-1	Sections 1119a-1, 1232 of this title.
1801	Sections 868, 1802, 1803, 2532 of this title.
1802	Sections 1801, 1803, 1805 of this title.
1865	Sections 1861, 2503, 2506, 2609, 2610, 2612 of this title.
2302	Sections 2303, 2310, 2311, 2370, 2380, 2563 of this title.
2303	Sections 2305, 2310, 2311, 2330, 2350, 2370, 2380, 2391, 2401, 2402, 2563 of this title.
2307	Sections 2302, 2304, 2305, 2306, 2308, 2309, 2330, 2350, 2443 of this title.

TITLE 20—EDUCATION—Cont.

Section	*Referred to in*
2308	Sections 2302, 2304, 2305, 2306, 2309, 2330, 2350 of this title.
2311	Sections 2330, 2350, 2380 of this title.
2351	Sections 2350, 2401 of this title.
2352	Sections 2311, 2350, 2401 of this title.
2353	Sections 2350, 2401 of this title.
2391	Sections 2303, 2307, 2309 of this title; title 29 sections 802, 894g.
2603	Sections 2604, 2605, 2606, 2608 of this title.
2604	Section 2609 of this title.
2605	Sections 2604, 2606, 2607, 2608, 2613 of this title.
2606	Sections 2605, 2608 of this title.
2607	Sections 2605, 2606, 2608, 2614 of this title.
2608	Sections 2605, 2607, 2614 of this title.
2609	Sections 2604, 2605, 2607, 2614 of this title.
2610	Sections 2603, 2605, 2614 of this title.
2611	Sections 2604, 2605 of this title.
2613	Section 2608 of this title.

TITLE 21—FOOD AND DRUGS

Section	*Referred to in*
114d-1	Sections 114b, 114c, 129 of this title; title 16 section 1540.
801	Title 15 section 1456.
802	Sections 822, 951, 957, 1118 of this title; title 18 sections 1952, 4251; title 19 section 1584; title 26 section 7607; title 28 section 2901; title 29 section 1111; title 31 section 1034; title 42 sections 201, 3411; title 46 section 239a; title 49 section 787.
1103	Section 1112 of this title.

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

Section	*Referred to in*
401	Sections 408, 408a of this title; title 50 App. section 2405.
611	Section 618 of this title; title 2 section 441e; title 8 section 1251.
618	Title 8 section 1251.
861	Title 5 section 5541.
909	Sections 1226, 1231 of this title.
946	Sections 861, 2679a of this title.
1008	Sections 911, 1037a of this title.
1112	Section 2512 of this title.
1221	Title 5 section 5541.
1641b	Sections 1641e, 1641i, 1641*l*, 1641o of this title; title 50 App. sections 2017g, 2017h, 2017*l*.
1641i	Sections 1641a, 1641c of this title; title 50 App. section 2017*l*.
1979	Sections 1973, 1975, 1980 of this title.

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE—Cont.

Section	*Referred to in*
2151	Sections 2162, 2212, 2346b, 2399c of this title.
2151a	Sections 2151d, 2151h, 2151q, 2220a, 2220d of this title; title 7 sections 1706, 1727, 1727b.
2151b	Sections 2151d, 2151h, 2151m of this title; title 7 sections 1706, 1727.
2151e	Section 2151q of this title.
2181	Sections 2182, 2183 of this title; title 12 sections 1432, 1464.
2292	Sections 2292a, 2292f, 2292g, 2292h, 2292i, 2292j of this title.
2292a	Sections 2292, 2292k of this title.
2321j	Section 2312 of this title.
2346a	Section 2346b of this title.
2364	Sections 2151g, 2151m, 2161, 2211, 2222, 2312, 2314, 2360, 2394, 2411, 2413 of this title.
2370	Sections 283*l*, 2293, 2312 of this title; title 7 section 1736d; title 12 section 635.
2417	Title 7 section 1726.
2427	Section 2151g of this title.
2458a	Title 5 section 7342.
2761	Sections 2321i, 2751, 2775, 2776, 2777, 2791, 2792 of this title.
2762	Sections 2751, 2775, 2776, 2777, 2779, 2791 of this title.
2776	Sections 2370, 2778 of this title.
2778	Sections 2304, 2372, 2751, 2776, 2779, 2791, 2794 of this title; title 26 section 5847.
2792	Section 2321i of this title.

TITLE 23—HIGHWAYS

Section	*Referred to in*
107	Title 43 section 1770.
134	Title 42 sections 7504, 7506.
317	Title 43 section 1770.
402	Sections 152, 153, 403, 404, 406 of this title; title 42 section 7544.

TITLE 25—INDIANS

Section	*Referred to in*
70m	Section 70v-3 of this title.
70n	Section 70v-3 of this title.
70n-1	Sections 70n-2, 70n-4, 70n-5, 70v-3 of this title.
70n-2	Sections 70n-4, 70n-5, 70v-3 of this title.
70n-4	Sections 70n-2, 70n-5, 70v-3 of this title.
70n-5	Sections 70n-2, 70n-4, 70v-3 of this title.
70n-6	Sections 70n-2, 70n-4, 70n-5, 70v-3 of this title.
70n-7	Sections 70n-2, 70n-4, 70n-5, 70v-3 of this title.
70s	Section 70v-3 of this title.
450b	Title 5 section 3371; title 7 section 2012.

TITLE 25—INDIANS—Cont.

Section	Referred to in
450f	Sections 450h, 450j, 450m of this title; title 7 section 2020; title 20 section 2303; title 42 section 2204b.
450g	Sections 450h, 450j, 450m of this title; title 7 section 2020; title 20 section 2303; title 42 section 2004b.
450h	Sections 450j, 450m of this title; title 7 section 2020; title 20 section 2303; title 42 section 2004b.
450i	Title 7 section 2020; title 20 section 2303.
450j	Title 7 section 2020; title 20 section 2303.
450k	Sections 450h, 450j of this title; title 7 section 2020; title 20 section 2303.
450l	Title 7 section 2020; title 20 section 2303.
450m	Title 7 section 2020; title 20 section 2303.
450n	Title 7 section 2020; title 20 section 2303.
461	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
462	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
463	Sections 70a, 324, 396b, 443, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
464	Sections 70a, 324, 396b, 443, 463, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
465	Sections 70a, 324, 396b, 443, 463, 463b, 464, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

TITLE 25—INDIANS—Cont.

Section	Referred to in
466	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
467	Sections 70a, 324, 396b, 443, 463, 464, 465, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
468	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
469	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
470	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 671, 674, 676, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
471	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
472	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
473	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.

TITLE 25—INDIANS—Cont.

Section	*Referred to in*
474	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
475	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
476	Sections 70a, 70n, 324, 390, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 711d, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 16 section 803; title 43 section 1615.
477	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
478	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478a, 478b, 479, 480, 482, 483, 488, 503, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
479	Sections 70a, 324, 396b, 443, 463, 464, 465, 467, 468, 469, 470a, 473, 473a, 474, 475, 475a, 478, 478a, 478b, 480, 482, 483, 488, 503, 504, 507, 704, 711a, 723, 725, 728, 758, 823, 903a, 903c, 935, 1461 of this title; title 43 section 1615.
711b	Sections 711, 711c, 711d of this title.
711c	Sections 711, 711b of this title.
711d	Sections 711b, 711c, 711e of this title.
1603	Title 42 sections 294y-1, 1395qq, 1396d, 1396j.

TITLE 26—INTERNAL REVENUE CODE

Section	*Referred to in*
1	Sections 2, 3, 42, 402, 511, 641, 871, 876, 877, 891, 911, 962, 1201, 1348, 6014, 6361 of this title.
2	Sections 1, 63, 1304, 3402, 6012, 6013, 6015 of this title.
3	Sections 42, 891 of this title.
32	Sections 874, 882, 6211 of this title.

TITLE 26—INTERNAL REVENUE CODE—Cont.

Section	*Referred to in*
33	Sections 41, 42, 44, 44A, 46, 50A, 53, 56, 691, 1351, 6096, 6428 of this title.
37	Sections 41, 42, 44, 44A, 46, 50A, 53, 56, 904, 1375, 6014, 6096, 6428 of this title.
38	Sections 41, 42, 44, 44A, 46, 47, 48, 49, 50A, 53, 56, 167, 185, 381, 861, 1351, 6096, 6428, 6601 of this title.
40	Sections 42, 44, 44A, 50A, 53, 56, 381, 6096, 6428, 6601 of this title.
41	Sections 42, 44, 44A, 50A, 53, 56, 218, 527, 642, 6096, 6428 of this title.
42	Sections 44, 44A, 53, 56, 6096, 6153 of this title.
44A	Sections 53, 56, 6096 of this title.
44B	Sections 51, 52, 53, 56, 280C, 381, 6096, 6601 of this title.
46	Sections 47, 48, 50, 50B, 52, 383, 6411 of this title.
51	Sections 52, 53 of this title.
52	Sections 51, 280C of this title.
53	Sections 52, 280C, 383, 6411 of this title.
56	Sections 5, 12, 46, 50A, 53, 58, 453, 511, 901, 936, 1373, 6015, 6362, 6654 of this title.
61	Sections 208A, 305, 351, 356, 408, 671, 707, 1101, 6103 of this title.
63	Sections 2, 3, 53, 161, 211, 1034, 3402, 6012, 6014, 6212, 6504 of this title.
72	Sections 37, 46, 50A, 53, 56, 79, 101, 105, 122, 401, 402, 403, 404, 405, 406, 407, 408, 409, 483, 691, 901, 1014, 1023, 1232, 1302, 1304, 1348, 1379, 4973 of this title; title 29 section 1345.
143	Sections 1, 2, 37, 42, 43, 63, 105, 219, 220, 1304, 3402, 6012, 6362, 6428 of this title.
151	Sections 2, 42, 43, 44A, 57, 63, 143, 152, 153, 172, 642, 703, 873, 874, 891, 904, 911, 931, 933, 1211, 1402, 1451, 3402, 6012, 6654 of this title.
152	Sections 2, 44A, 50B, 105, 120, 143, 151, 153, 170, 213, 7701 of this title; title 5 section 7342; title 20 section 1232g; title 33 section 909.
170	Sections 44A, 79, 101, 103, 117, 151, 152, 162, 381, 410, 501, 507 to 509, 512, 535, 545, 556, 584, 642, 664, 674, 677, 702, 703, 809, 873, 882, 931, 1011, 2039, 2055, 2517, 4041, 4221, 4253, 4911, 4941, 4942, 4944, 4945, 4947, 4948, 5214, 6033, 7428 of this title; title 2 sections 439a, 441i; title 16 section 1285; title 20 sections 76m, 954; title 22 section 2876; title 29 section 1052; title 42 section 2996b.

TITLE 26—INTERNAL REVENUE CODE—Cont.

Section	*Referred to in*
172	Sections 56, 170, 186, 246, 381, 481, 512, 527, 528, 535, 545, 556, 584, 613A, 642, 703, 804, 809, 822, 823, 844, 852, 904, 1212, 1242, 1244, 1247, 1314, 1341, 1351, 1373, 1374, 1402, 6164, 6411, 6501 of this title; title 49 section 1376.
356	Sections 83, 306, 312, 354, 355, 358, 367, 368, 425, 1101, 1223, 6166, 6166A of this title.
368	Sections 247, 249, 279, 306, 351, 354, 355, 357, 381, 382, 402, 512, 815, 995, 1101, 1103, 1232, 1244, 4912, 4920, 6166, 6166A, 6901 of this title; title 12 section 1717.
402	Sections 37, 46, 50A, 53, 56, 62, 101, 219, 220, 401, 403, 405, 406, 407, 408, 409, 415, 871, 901, 911, 1348, 1379, 1441, 2039, 4973 of this title.
408	Sections 37, 46, 50A, 53, 56, 72, 219, 220, 402, 403, 409, 415, 805, 901, 2039, 2517, 4973, 4974, 4975, 6047, 6058, 6104, 6693 of this title; title 12 section 1464; title 29 sections 1051, 1081, 1103, 1107, 1108.
443	Sections 3, 441, 536, 546, 557, 818, 852, 857, 6012, 6013 of this title.
501	Sections 37, 72, 101, 103, 104, 116, 117, 170, 219, 246, 267, 274, 311, 318, 382, 401 to 405, 408 to 412, 414, 415, 502, 504, 507, 508, 509, 511, 512, 513, 514, 527, 542, 642, 681, 805, 821, 871, 911, 992, 1504, 1563, 2039, 2055, 2517, 2522, 3121, 3303, 3306, 3401, 4041, 4221, 4251, 4253, 4294, 4421, 4911, 4940, 4941, 4942, 4945, 4947, 4948, 4975, 5214, 6033, 6043, 6047, 6104, 6110, 6420, 6421, 6424, 6427, 6501, 7428, 7609, 7802, 9012 of this title; title 5 sections 3102, 4111; title 12 section 1843; title 15 sections 77c, 1291; title 18 sections 1511, 1955; title 20 sections 76m, 1681; title 29 sections 169, 303, 706, 1002, 1051, 1052, 1081, 1086, 1321; title 40 sections 483, 484; title 42 sections 300e–9, 409, 410, 1301, 1395x, 1760, 1766, 1784, 2000e, 2996b, 3056; title 50 section 790.
521	Sections 48, 52, 116, 246, 1245, 1250, 1251, 1381, 3306, 4421, 6044 of this title; title 15 section 77c.
531	Sections 12, 46, 50A, 53, 56, 111, 532, 534, 535, 536, 545, 556, 563, 901 of this title; title 46 section 1177.

TITLE 26—INTERNAL REVENUE CODE—Cont.

Section	*Referred to in*
541	Sections 46, 50A, 53, 56, 111, 535, 545, 546, 547, 556, 563, 882, 901, 992, 6683 of this title.
593	Sections 46, 50B, 52, 57, 166, 172, 582, 585, 595, 596, 992, 1038 of this title.
613	Sections 57, 163, 381, 611, 613A, 614, 617, 631, 636, 901, 903, 1082, 4940 of this title.
911	Sections 3, 37, 43, 63, 72, 220, 403, 410, 415, 1302, 1303, 1304, 1348, 1402, 3401, 6012, 6091 of this title; title 29 section 1322; title 42 section 411.
931	Sections 43, 48, 63, 153, 901, 957, 1302, 1402, 1504, 6012, 6091 of this title; title 42 section 411; title 48 section 1421i.
1102	Section 1103 of this title.
1103	Section 6158 of this title.
1201	Sections 3, 5, 12, 57, 527, 594, 802, 821, 852, 871, 877, 882, 911, 1304, 1378, 1381, 6154, 6425, 6655 of this title.
1301	Sections 3, 5 of this title.
1348	Sections 3, 1304 of this title.
1351	Sections 46, 53, 80, 901, 936, 6167 of this title.
1371	Sections 46, 48, 50B, 52, 57, 58, 163, 170, 183, 189, 280, 465, 992, 1016, 1101, 1251, 1372, 6037, 6362 of this title; title 46 section 1177.
1378	Sections 46, 50A, 53, 58, 1372, 1373, 1375 of this title.
1381	Sections 46, 50B, 52, 1382, 1385, 6044, 6072 of this title.
1402	Sections 43, 52, 401, 981, 2032A, 6362, 6521, 6654 of this title; title 42 sections 401, 402, 411, 430.
1563	Sections 46, 48, 50A, 52, 58, 103, 120, 179, 250, 368, 382, 404, 414, 415, 613A, 861, 993, 1504, 1551, 1561, 1564; title 29 sections 1002, 1060, 1107, 1301, 1322.
2501	Sections 305, 351, 1101, 2502, 2505, 2511, 2621 of this title.
3111	Sections 401, 3112, 3121, 3122, 3125, 3211, 3221, 6051, 6205, 6413, 6690 of this title; title 42 sections 401, 401a, 418, 907, 1395i.
3121	Sections 44A, 51, 176, 401, 406, 412, 1402, 1563, 3101, 3102, 3111, 3122, 3124, 3125, 3201, 3202, 3211, 3221, 3306, 3401, 6051, 6053, 6413, 6652 of this title; title 7 section 2042; title 20 section 125; title 29 section 1082; title 42 sections 401, 409, 410, 430; title 45 sections 231b, 231e; title 49 section 303.
3211	Sections 275, 1402, 3502, 6051, 6413 of this title; title 42 section 430; title 45 sections 231e, 231n.

TITLE 26—INTERNAL REVENUE CODE—Cont.

Section	*Referred to in*
3221	Sections 3211, 3231, 6205, 6413 of this title; title 42 section 430; title 45 section 231n.
3302	Sections 3303, 3304, 3305, 3306 of this title; title 42 section 1101.
3304	Sections 3302, 3303, 3305, 3309, 3310 of this title; title 19 section 2319; title 42 sections 602, 1103.
3306	Sections 51, 3301, 3305, 3309, 6157 of this title.
3402	Sections 31, 3401, 3505, 6040, 6051, 6205, 6413, 6682, 7205 of this title; title 42 section 662.
5062	Sections 5008, 5009, 5066, 5215 of this title.
5066	Sections 5008, 5214 of this title.
5178	Sections 5202, 5215, 5233, 5235, 5511, 5601 of this title.
5214	Sections 5001, 5002, 5003, 5004, 5005, 5008, 5023, 5025, 5066, 5174, 5205, 5211, 5215, 5244, 5271, 5273, 5275, 5314, 5607 of this title.
5215	Sections 5008, 5066, 5178, 5205, 5214, 5223, 5612 of this title.
5233	Sections 5066, 5178, 5205, 5214, 5232, 5235, 5612 of this title.
6011	Section 911 of this title; title 42 section 405.
6013	Sections 1, 2, 41, 43, 44, 63, 121, 151, 165, 179, 213, 218, 692, 1244, 6012, 6017, 6072, 6428, 6501, 6511, 6653, 7508 of this title.
6014	Sections 3, 6151, 6211 of this title.
6103	Sections 4424, 6104, 6108, 7213, 7217, 8021 of this title; title 29 section 1134; title 31 section 67; title 42 section 432.
6158	Sections 1101, 1103, 6601 of this title.
6406	Section 6611 of this title; title 31 section 67.
7122	Sections 63, 453, 1311, 1481, 6013, 6103, 6325, 6511, 6521, 7206, 7809 of this title.
7510	Sections 5001, 5002, 5003, 5004, 5005, 5023, 5025, 5174, 5214, 5215 of this title.

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

Section	*Referred to in*
451	Section 376 of this title; title 2 section 130b; title 5 sections 5537, 8331; title 12 sections 1464, 1730; title 18 sections 4107, 4108.
507	Title 20 section 1132c-2; title 26 section 7422; title 42 section 3211.
518	Title 7 section 2050a; title 29 sections 663, 1132; title 30 section 822; title 42 section 7171.
1254	Section 2350 of this title; title 2 section 437g; title 5 section 1508; title 7 sections 136n, 194, 2050; title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 sections 21, 29, 45, 57a, 77i, 78aa, 79x, 79y, 80a-42, 80a-43, 80b-13, 687a, 687e, 717r, 1193, 1262, 1394, 1474, 1710, 1719, 1913, 2004, 2060, 2618; title 16 sections 825*l*, 825p; title 19 sections 1641, 2322; title 20 sections 241e-1, 241k, 351d, 585, 827, 844a, 845, 869a, 1070c-3, 1128, 1132a-7, 1207, 1232c, 1263, 1413, 1416, 1806, 2309; title 21 sections 346a, 348, 355, 360g, 371; title 22 section 1631e; title 23 section 131; title 26 sections 3310, 6363, 7482; title 27 section 204; title 29 sections 160, 210, 660, 667, 819; title 30 section 816; title 31 section 1263; title 33 sections 505, 520, 988; title 38 section 784; title 40 section 333; title 42 sections 263a, 263f, 291h, 300s, 504, 1316, 2689*l*, 3025, 3045d, 3414, 3759, 5311, 5405, 6068, 6306, 6869; title 45 section 153; title 47 section 402; title 49 sections 45, 1486, 1675.
1255	Title 25 section 70v-3; title 50 App. section 1218a.
1360	Title 25 sections 711e, 1323.
1361	Title 18 section 923; title 42 sections 300j-9, 7622.
1441	Section 1332 of this title; title 33 section 1323.
1492	Section 2509 of this title; title 17 section 502.

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE—Cont.

Section	*Referred to in*
2112	Section 2346 of this title; title 7 sections 8, 9, 136n, 194, 1115, 1600, 1601; title 12 sections 1464, 1730, 1730a, 1786, 1818, 1848; title 15 sections 21, 45, 57a, 78y, 79x, 80a-42, 80b-13, 687e, 717r, 1193, 1262, 1394, 1474, 1710, 1825, 1913, 2060, 2618; title 16 sections 825*l*, 1858; title 19 sections 81r, 1641; title 20 sections 241e-1, 241k, 351d, 827, 844a, 845, 869a, 1110c, 1207, 1232c, 1263, 1413, 1416, 1806, 2309; title 21 sections 346a, 348, 355, 360g, 371; title 22 section 1631f; title 26 sections 3310, 6363; title 27 section 204; title 29 sections 160, 210, 660, 667, 819; title 30 section 816; title 31 section 1263; title 33 section 921; title 39 section 3628; title 40 section 333; title 42 sections 263a, 263f, 291h, 300s, 504, 1316, 3025, 3045d, 3759, 5311, 5405, 6068, 6306, 6869, 7525; title 43 section 355; title 46 section 1181; title 47 section 402; title 49 section 1486.
2464	Title 16 sections 916g, 958, 959, 971f, 1031, 1100a-1.
2517	Section 2412 of this title; title 16 sections 79g, 460bb-2; title 25 section 70v-3; title 31 section 724a.
2518	Title 25 section 70v-3; title 31 section 724a.

TITLE 29—LABOR

Section	*Referred to in*
203	Section 213 of this title; title 7 section 2042; title 26 section 3121; title 49 section 303.
206	Sections 203, 205, 207, 208, 213, 214, 215, 216, 218, 821, 848, 895a, 993d of this title; title 5 sections 5343, 5349; title 7 sections 2015, 2026; title 15 section 1673; title 18 section 3575; title 21 section 849; title 26 section 3121; title 38 section 1685; title 41 section 351; title 42 sections 300e-9, 431, 2000e-2, 2930b, 2951, 3056.
208	Sections 205, 206, 210 of this title.
213	Sections 203, 206, 216, 218, 845, 848 of this title; title 5 sections 5343, 5349; title 42 sections 300e-9, 3056.
214	Sections 215, 892b, 895a of this title.
557a	Section 952 of this title.
794	Title 31 section 1242; title 42 section 6727.
811	Sections 818, 894a, 983 of this title.

TITLE 29—LABOR—Cont.

Section	*Referred to in*
812	Sections 813, 816, 817, 820, 844, 893a, 894c, 963, 964, 993b of this title; title 7 section 2026.
814	Sections 803, 893e, 894e, 969 of this title.
815	Sections 816, 818, 819, 872, 893e, 894e of this title.
816	Sections 813, 818, 819, 894e of this title.
817	Sections 803, 813 of this title; title 20 sections 2305, 2307.
818	Sections 815, 817, 819, 820, 894f of this title.
819	Sections 816, 894f of this title.
820	Sections 813, 883, 894f of this title.
821	Sections 815, 894e of this title; title 20 sections 1393d, 2415.
844	Sections 851, 893e, 894b, 962, 963, 993b of this title; title 42 section 3246a.
845	Sections 815, 847, 962, 964, 982 of this title; title 7 section 2026.
848	Sections 815, 847, 849, 962, 964, 981 of this title; title 7 section 2026.
872	Sections 893a, 893e, 894c, 962, 993b of this title.
873	Sections 893a, 893e, 894c, 993b of this title; title 20 section 2561.
874	Sections 892b, 964, 985 of this title.
892a	Section 892b of this title.
892b	Section 892 of this title.
892c	Section 892b of this title.
892d	Section 892b of this title.
893b	Section 894b of this title.
894a	Sections 894b, 894d, 894e, 894f of this title.
894b	Section 894e of this title.
894e	Section 893e of this title.
894g	Sections 802, 894b, 894c of this title.
895a	Section 892b of this title.
895b	Section 892b of this title.
952	Section 803 of this title.
965	Section 895c of this title.
981	Sections 893a, 894a, 894b, 965, 967 of this title.
983	Sections 818, 929 of this title; title 7 section 2026.
993b	Section 993e of this title.
993d	Section 993e of this title.
1306	Sections 1302, 1362, 1381 of this title.
1322	Sections 1301, 1305, 1306, 1321, 1343, 1344, 1346, 1361, 1381 of this title; title 42 section 430.

TITLE 30—MINERAL LANDS AND MINING

Section	*Referred to in*
1	Sections 3, 5, 6, 7, 8 of this title; title 42 section 7152.
3	Sections 1, 5, 6, 7, 8 of this title; title 42 section 7152.
5	Sections 1, 3, 6, 7, 8 of this title; title 42 section 7152.

TITLE 30—MINERAL LANDS AND MINING—Cont.

Section	*Referred to in*
6	Sections 1, 3, 5, 7, 8 of this title; title 42 section 7152.
7	Sections 1, 3, 5, 6, 8 of this title; title 42 section 7152.
21a	Section 1292 of this title; title 43 section 1701.
181	Sections 185, 208, 275, 1004, 1272 of this title; title 10 sections 7421, 7435.
185	Sections 236a, 275, 285 of this title; title 10 sections 7421, 7435; title 33 section 1522; title 42 section 6271; title 43 sections 1652, 1768; title 50 App. section 2403.
201	Sections 202, 208, 208-1, 1262, 1263, 1272, 1273, 1304 of this title; title 10 sections 7421, 7435.
202a	Section 1272 of this title.
203	Sections 208, 1272 of this title; title 10 sections 7421, 7435.
207	Sections 201, 208, 1256, 1272 of this title; title 10 sections 7421, 7435.
208-1	Section 1272 of this title.
208-2	Section 1272 of this title.
209	Section 1272 of this title; title 10 sections 7421, 7435.
352	Sections 354, 1272 of this title.
811	Sections 813, 815, 841, 842, 846, 861 of this title.
812	Sections 811, 961 of this title.
813	Sections 814, 821 of this title.
814	Sections 815, 816, 817, 820, 821, 842, 863 of this title.
815	Sections 814, 816, 820 of this title.
816	Sections 804, 814, 815, 817, 953 of this title.
817	Sections 816, 820, 821 of this title.
818	Section 815 of this title.
820	Sections 815, 816, 817, 825 of this title.
825	Section 814 of this title.
878	Section 841 of this title.
951	Sections 952, 958, 961 of this title.
954	Section 952 of this title.
1221	Sections 1222, 1223 of this title.
1222	Section 1223 of this title.
1223	Section 1224 of this title.
1226	Section 1328 of this title.
1231	Sections 1236, 1291, 1302 of this title.
1232	Sections 1231, 1235, 1239 of this title.
1234	Sections 1233, 1235, 1239 of this title.
1235	Section 1232 of this title.
1236	Section 1231 of this title.
1239	Sections 1231, 1232 of this title.
1240	Sections 1235, 1237 of this title.
1251	Sections 1211, 1254, 1265, 1266, 1276, 1292, 1298 of this title.
1252	Sections 1251, 1253, 1256, 1268, 1271, 1273, 1302 of this title.

TITLE 30—MINERAL LANDS AND MINING—Cont.

Section	*Referred to in*
1253	Sections 1235, 1252, 1254, 1256, 1268, 1271, 1272, 1291, 1292, 1309 of this title.
1254	Sections 1252, 1253, 1256, 1271, 1272, 1291, 1292 of this title.
1257	Sections 1231, 1258, 1260, 1265, 1269, 1300, 1302 of this title.
1258	Sections 1256, 1291, 1300 of this title.
1259	Sections 1256, 1265, 1279, 1291, 1300 of this title.
1260	Sections 1256, 1263, 1300 of this title.
1262	Section 1291 of this title.
1263	Sections 1256, 1260, 1264, 1269 of this title.
1264	Sections 1256, 1263 of this title.
1265	Sections 1252, 1257, 1258, 1259, 1260, 1262, 1266, 1269, 1276, 1279, 1291, 1300, 1301 of this title.
1266	Sections 1265, 1276, 1279, 1291, 1300, 1301 of this title.
1267	Section 1300 of this title.
1268	Section 1262 of this title.
1269	Sections 1265, 1279, 1300 of this title.
1270	Section 1276 of this title.
1271	Sections 1253, 1254, 1268, 1275, 1276 of this title.
1272	Sections 1211, 1253, 1254, 1260, 1273 of this title.
1273	Sections 1253, 1276, 1291, 1292, 1295, 1302 of this title.
1275	Sections 1268, 1276 of this title.
1276	Sections 1264, 1268, 1275 of this title.
1291	Section 1252 of this title.
1293	Section 1268 of this title.
1294	Section 1268 of this title.
1295	Section 1302 of this title.
1296	Sections 1211, 1267 of this title.
1300	Sections 1273, 1302 of this title.
1302	Sections 1231, 1252, 1300 of this title.
1304	Section 1291 of this title.
1305	Section 1291 of this title.
1311	Sections 1291, 1312 of this title.
1316	Section 1314 of this title.
1324	Section 1326 of this title.

TITLE 31—MONEY AND FINANCE

Section	*Referred to in*
67	Title 2 section 104a; title 26 section 6103; title 42 section 2996h.
203	Section 711 of this title; title 22 sections 1004, 2392; title 26 section 6422; title 43 section 1628; title 50 section 1651; title 50 App. 1215.
355	Sections 281, 283, 322, 341, 350, 369 of this title.

TITLE 31—MONEY AND FINANCE—Cont.

Section	*Referred to in*
529	Sections 529b, 529f, 530a, 531, 545 of this title; title 2 section 475; title 5 sections 3381, 4109, 5923, 5924; title 7 sections 4271, 1624; title 10 sections 2127, 2388, 6154, 7522; title 12 section 1701z-2; title 15 sections 634, 2056, 2451, 2609, 2626; title 16 sections 460*l*-1, 565a-1, 581i-1; title 18 sections 4109, 4204; title 20 sections 959, 1221e-3, 2012, 2106; title 21 sections 360d, 360j; title 22 sections 289c, 294, 2103, 2179; title 30 section 1226; title 33 section 1254; title 37 section 1006; title 40 section 462; title 42 sections 242m, 247d, 263d, 286d, 287b, 292f, 294t, 295f-4, 295g-9, 295g-10, 296k, 300c-11, 300c-21, 300c-22, 300d-5, 300e-2, 300e-3, 300u, 1453, 1456, 1870, 1961c-2, 3105, 4101, 4372, 4585, 6009, 7403, 7404; title 49 sections 66, 1353, 1603, 1604, 1638, 1643; title 50 sections 491, 502, 522; title 50 App. section 1918.
581c	Title 42 sections 5872, 7291.
701	Sections 703, 705, 706 of this title; title 14 section 659.
1225	Sections 1227, 1228 of this title; title 42 section 603.
1242	Sections 1241, 1244, 1263 of this title; title 42 section 6727.
1244	Section 1242 of this title; title 42 section 6727.
1245	Title 42 section 6727.
1261	Title 42 section 6723.
1704	Section 1702 of this title.
1705	Section 1702 of this title.

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Section	*Referred to in*
154	Sections 157, 356, 1604 of this title.
241	Section 1604 of this title.
301	Sections 353, 1604 of this title.
407	Sections 411, 412, 413, 418, 419, 702i of this title; title 30 section 1292; title 48 section 1399.
857-13	Sections 857-17, 857-18 of this title.
857-14	Sections 857-13, 857-17, 857-18 of this title.
857-15	Sections 857-13, 857-17, 857-18 of this title.
857-16	Sections 857-13, 857-17, 857-18 of this title.
857-17	Sections 857-13, 857-13 of this title.
857-18	Sections 857-13, 857-17 of this title.
1251	Sections 1252, 1311 of this title.
1254	Sections 1255, 1263, 1322, 1375, 1376 of this title.

TITLE 33—NAVIGATION AND NAVIGABLE WATERS—Cont.

Section	*Referred to in*
1255	Sections 1254, 1263, 1375, 1376 of this title.
1263	Sections 1255, 1376 of this title.
1281	Sections 1254, 1281a, 1282, 1283, 1284, 1285, 1288, 1291, 1292, 1297, 1311, 1314, 1371, 1375 of this title.
1282	Sections 1255, 1285 of this title.
1283	Sections 1284, 1285, 1286, 1311 of this title.
1284	Sections 1259, 1281, 1285, 1293, 1311, 1342 of this title.
1288	Sections 1252, 1284, 1285, 1287, 1289, 1313, 1314, 1344, 1362, 1375, 1376 of this title; title 42 section 6946.
1292	Sections 1285, 1317, 1342, 1345, 1375.
1311	Sections 1255, 1292, 1297, 1312, 1313, 1314, 1317, 1319, 1325, 1326, 1341, 1342, 1344, 1364, 1365, 1367, 1369 of this title.
1312	Section 1292, 1311, 1313, 1314, 1319, 1341, 1342, 1365, 1367, 1369 of this title.
1313	Sections 1252, 1284, 1288, 1314, 1326, 1341, 1375 of this title.
1314	Sections 1255, 1281, 1284, 1288, 1311, 1313, 1315, 1317, 1322, 1323, 1342, 1344, 1369, 1376 of this title.
1315	Sections 1311, 1313, 1314, 1317, 1319, 1323, 1326, 1341, 1342, 1364, 1365, 1367, 1369, 1371, 1374 of this title.
1317	Sections 1288, 1311, 1313, 1314, 1319, 1323, 1341, 1342, 1344, 1364, 1365, 1367, 1369, 1374 of this title.
1318	Sections 1319, 1342, 1344 of this title.
1319	Sections 1256, 1342, 1344, 1364, 1365, 1368 of this title.
1321	Sections 1014, 1314, 1318, 1364, 1376, 1402, 1486, 1517 of this title; title 43 section 1653.
1328	Sections 1311, 1319, 1342 of this title.
1342	Sections 1251, 1285, 1288, 1311, 1314, 1318, 1319, 1323, 1328, 1341, 1343, 1344, 1345, 1364, 1365, 1369, 1371, 1373 of this title; title 42 section 6903.
1343	Sections 1254, 1288, 1314, 1342, 1344, 1364 of this title.
1344	Sections 1251, 1285, 1288, 1311, 1318, 1319, 1342 of this title.
1345	Sections 1317, 1319 of this title.
1362	Sections 1319, 1344 of this title; title 26 section 169.
1365	Sections 1342, 1344 of this title.
1411	Sections 1412, 1412a of this title.
1471	Section 1321 of this title.
1602	Section 1603 of this title.
1604	Section 1603 of this title.
1605	Section 1603 of this title.
1607	Section 1608 of this title.

TITLE 36—PATRIOTIC SOCIETIES AND OBSERVANCES

Section	*Referred to in*
896	Section 895 of this title.

TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

Section	*Referred to in*
201	Title 10 section 555.
203	Sections 201, 209, 1009 of this title; title 10 section 1401a.

TITLE 38—VETERANS' BENEFITS

Section	*Referred to in*
1661	Sections 1652, 1662, 1682, 1682A, 1693, 1696, 1798 of this title.
1662	Section 1712 of this title; title 20 section 1070e-1.
1673	Sections 1641, 1682A of this title.
1682	Sections 1682A, 1691, 1692, 1732, 1780 of this title.
1682A	Sections 1738, 1798 of this title.
1685	Sections 241, 243, 246, 1502 of this title; title 20 section 1070e-1.
1692	Sections 246, 1733 of this title; title 20 section 1070e-1.
1701	Sections 240, 1711, 1712, 1720, 1763, 1765, 1786, 1787, 1798 of this title.
1780	Sections 1502, 1641, 1784, 1790, 1798 of this title.
1784	Sections 1785, 1798 of this title.
1785	Section 1784 of this title.
1798	Sections 1682A, 1686, 1737, 1799 of this title.
1799	Sections 1682A, 1686, 1737, 1798 of this title.
1819	Section 1811 of this title.
2011	Section 2014 of this title; title 29 section 803; title 42 section 6706.
4104	Sections 4105, 4107, 4110, 4111, 4113, 4114 of this title.

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

Section	*Referred to in*
276c	Section 808 of this title; title 16 section 779e; title 20 sections 684, 954, 1232b; title 25 section 450e; title 29 sections 776, 986; title 31 section 1243; title 33 section 1372; title 39 section 410; title 40 App. section 402; title 42 sections 242m, 247d, 254c, 291e, 293a, 295d, 296a, 299d, 300j-9, 300o-3, 1440, 1459, 1486, 1500c-3, 1592i,
276c (Cont.)	2689j, 2930a, 2947, 2992a, 3041a, 3107, 3222, 3310, 3884, 3909, 4529, 5046, 5310, 6042, 6063, 6708, 6728, 6881, 6979, 7614; title 49 sections 1609, 1636; title 50 App. section 2281.
472	Title 10 sections 2573, 2667; title 42 sections 1455, 7259; title 43 section 1702; title 44 section 2901; title 50 section 167a.

TITLE 41—PUBLIC CONTRACTS

Section	*Referred to in*
5	Sections 5a, 6a, 6a-1, 6b, 252, 260 of this title; title 2 sections 72a, 135a, 475, 604; title 5 sections 3109, 4105, 8709, 8714a, 8902; title 7 sections 87e-1, 427i, 1624; title 8 sections 1252, 1355; title 10 section 2314; title 12 sections 1141b, 1701z-2, 1703, 1710, 1713, 1739, 1747g, 1747k, 1749a, 1750c, 1788, 1827; title 15 sections 634, 2218, 2507, 2609, 2626; title 16 sections 17b, 17i, 343b, 450jj-1, 504, 580c, 590z-3, 594-5, 757, 916*l*, 961, 1052; title 20 sections 1034, 1070d-1, 2012, 2106; title 21 section 872; title 22 sections 272a, 280b, 280i, 280k, 287e, 287r, 289c, 290b, 295b, 1047, 2103, 2179, 2509; title 23 sections 140, 307; title 24 sections 322, 324; title 28 sections 624, 753; title 29 section 671; title 30 section 556; title 31 section 866; title 33 sections 1123, 1254; title 38 sections 766, 806, 1820, 4101, 4202, 5012, 5070; title 40 sections 71a, 276a-7, 484, 609, 758; title 42 sections 242k, 242m, 247d, 263d, 283, 285, 286d, 287b, 292f, 295f-4, 295g-9, 295g-10, 296k, 300c-11, 300c-21, 300c-22, 300d-5, 300e-2, 300e-3, 300u, 1395u, 1532, 1543, 1563, 1592d, 1592h, 1870, 2051, 2061, 2063, 2075, 2096, 2210, 2293, 2295, 2310, 2349, 2362, 3211, 3535, 4081, 4082, 4101, 4372, 4585, 6009, 6616, 7403, 7404; title 45 sections 361, 712, 715, 719; title 46 section 1126; title 48 sections 1409b, 1409f, 1409j; title 49 sections 20, 26b, 65, 1159, 1638, 1643, 1903; title 50 sections 98b, 198; title 50 App. section 1918.
35	Sections 36, 37, 38, 39, 40, 41, 42, 43, 43a, 44, 45, 258 of this title; title 10 sections 2304, 7299; title 15 section 637; title 39 section 410.

TITLE 42—THE PUBLIC HEALTH AND WELFARE

Section	*Referred to in*
201	Title 18 sections 3651, 4209.
241	Sections 242, 242a, 263, 282, 283, 287a, 287h, 288a, 288b, 289a, 289c, 289d, 289g, 289k, 289k-1, 289k-4, 300d-5, 4551, 7610 of this title; title 21 section 1191.
242k	Sections 242*l*, 242m, 300*l*-2, 300m-1, 1320a of this title.
243	Section 7610 of this title.
246	Sections 201, 235, 236, 243, 247b, 291e, 293a, 300*l*, 300*l*-3, 300*l*-4, 1320a-1, 2689r, 2689t, 4728, 7610 of this title; title 21 sections 1173, 1176; title 48 section 1666.
254c	Section 1396b of this title; title 7 section 3178.
254e	Sections 254d, 254f, 294h, 294n, 294t, 294u, 294x, 296m of this title.
289*l*-1	Sections 286b, 287d, 289c-1, 294u of this title.
294d	Sections 294a, 294e, 294f of this title.
294s	Section 294r of this title.
294y	Section 294y-1 of this title.
294y-1	Title 25 section 1614.
295f	Sections 254d, 292c, 292h, 292j, 294d, 294j, 294t, 295f-1, 295f-2 of this title.
295f-1	Section 293a, 294j, 295f, 295f-2 of this title.
295g-8	Section 295f-2 of this title.
295g-9	Section 300d-7 of this title.
300d-1	Sections 300d-5, 300d-6, 300d-7 of this title.
300d-4	Sections 300d-5, 300d-6, 300d-7 of this title.
300d-7	Sections 300d-4, 300d-8 of this title.
300d-8	Sections 300d-1, 300d-2, 300d-3, 300d-7 of this title.
300d-21	Sections 300d-5, 300d-7 of this title.
300e	Sections 300e-5, 300e-6, 300e-9, 300e-10, 300e-11, 300e-13, 300e-14, 1301, 1320a-3, 1396b of this title.
300g-1	Sections 300f, 300g-2, 300g-3, 300g-4, 300g-5, 300j-1, 300j-2, 300j-3, 300j-4, 300j-7 of this title; title 21 section 349.
300h	Sections 300h-1, 300j-2, 300j-6, 300j-7 of this title.
300j-6	Sections 300h, 300j-8 of this title.
300j-7	Section 300j-8 of this title.
300k-3	Sections 254j, 300k-1 of this title.

TITLE 42—THE PUBLIC HEALTH AND WELFARE—Cont.

Section	*Referred to in*
300*l*-2	Sections 300*l*-1, 300*l*-3, 300*l*-4, 300m-1, 300m-2, 300n-1, 300n-2, 300n-3, 300n-4, 300n-5, 300*o*-3, 300t of this title.
300*l*-4	Sections 254e, 254f, 254j, 300d, 300d-5, 300*l*, 300*l*-2, 300*l*-3, 300*l*-5, 300t, 1320a of this title.
300m	Sections 254e, 254f, 254j, 300*l*-2, 300d, 300m-2, 300m-3, 300m-4, 300m-5, 300n-5, 1320a, 2689u of this title; title 12 sections 1715w, 1715z-7.
300n-5	Section 300*l* of this title.
402	Sections 401, 403, 405, 415, 416, 417, 422, 423, 424a, 425, 426, 426a, 427, 428, 433, 1320b-1, 1395i-1, 1395p, 1395s of this title; title 5 section 8332; title 30 sections 902, 922; title 38 sections 412, 422; title 45 sections 231a, 231c, 231e, 231f.
403	Sections 402, 408, 415, 423, 424a, 1382a of this title; title 10 section 1451; title 26 section 1402; title 30 section 922; title 45 sections 231a, 231q.
404	Sections 405, 909 of this title; title 30 section 923.
409	Sections 403, 405, 413, 417, 418, 424a, 430 of this title; title 5 section 5901; title 29 section 206; title 45 sections 231, 231b, 231e.
411	Sections 403, 424a, 430, 1382a of this title; title 45 sections 231b, 231e.
413	Sections 430, 433, 607 of this title.
415	Sections 402, 403, 413, 417, 423, 427, 428, 430, 431, 433, 1382f, 1395r of this title; title 26 section 415; title 45 sections 231b, 231c.
418	Sections 402, 405, 405a, 409, 410, 411 of this title; title 26 sections 1402, 3121, 6413, 6511.
426	Sections 401, 426a, 433, 1320b-1, 1395c, 1395e, 1395f, 1395h, 1395i-1, 1395i-2, 1395p, 1395u, 1395ff of this title; title 45 sections 231f, 231r.
428	Sections 405, 415, 662, 1320b-1 of this title; title 48 section 1421q.
430	Sections 403, 409, 411, 413, 415 of this title; title 26 section 1402, 6413, 6654; title 29 section 1322.
433	Title 26 sections 1401, 3101, 3111.
602	Sections 603, 604, 606, 607, 608, 609, 622, 631, 632, 633, 636, 643, 644, 652, 654, 656, 658, 1202, 1308, 1315, 1352, 4728 of this title; title 25 sections 683, 686, 689, 996.

TITLE 42—THE PUBLIC HEALTH AND WELFARE—Cont.

Section	*Referred to in*
607	Sections 606, 608, 1315 of this title.
611	Section 602 of this title.
654	Sections 655, 1396k of this title.
659	Sections 661, 662 of this title.
661	Section 659 of this title.
1318	Section 603 of this title.
1320a	Sections 1395x, 1396a of this title.
1320a-3	Sections 1395x, 1396a, 1397b of this title.
1320a-5	Sections 1395cc, 1396b, 1397a of this title.
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